

**Shelby County
Board of Zoning Appeals**

September 14, 2021 at 7:00 PM

Table of Contents

Agenda.....	3
BZA 21-29 William & Shannon Callon – Development Standards Variances	4
Staff Report	4
Petitioner’s Findings of Fact	7
Site Plan	8
BZA 21-24 Charles Williams & Kayleigh Keener – Use & Development Standards Variances....	9
Staff Report	9
Petitioner’s Statement of Intent	16
Petitioner’s Findings of Fact	17
Site Plan	19
Resolution 2021-01 – Resolution of the Shelby County Board of Zoning Appeals establishing the policy by which members of the Board of Zoning Appeals may participate by electronic means of communication.	20

MEETING AGENDA

Shelby County Board of Zoning Appeals September 14, 2021, 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the August 10, 2021 meeting.

NEW BUSINESS

BZA 21-29 – WILLIAM & SHANNON CALLON: DEVELOPMENT STANDARDS VARIANCES. Located at 7988 W Shelby 250 S, Franklin, Hendricks Township.

OLD BUSINESS

BZA 21-24 – CHARLES WILLIAMS & KAYLEIGH KEENER: USE & DEVELOPMENT STANDARDS VARIANCES. Located at 3615 W 1200 N, New Palestine, Moral Township.

DISCUSSION

Resolution 2021-01: Resolution of the Shelby County Board of Zoning Appeals establishing the policy by which members of the Board of Zoning Appeals may participate by electronic means of communication.

ADJOURNMENT

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

Property Details

Location: 7988 W Shelby 250 S,
Franklin, Hendricks Township.

Property Size: 3.18 acres.

Current Land Use: Vacant.

Zoning Classification:

RE (Residential Estate)

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

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

Future Land Use per Comp Plan

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.

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

Staff Report

Case Number: BZA 21-29

Case Name: William & Shannon Callon –
Development Standards Variances

Request

Variances of Development Standards for allow:

1. A new single-family dwelling 19-feet from the west property line (minimum 30-foot setback required);
2. A driveway 28-feet from a driveway on adjoining property (60-foot separation required).

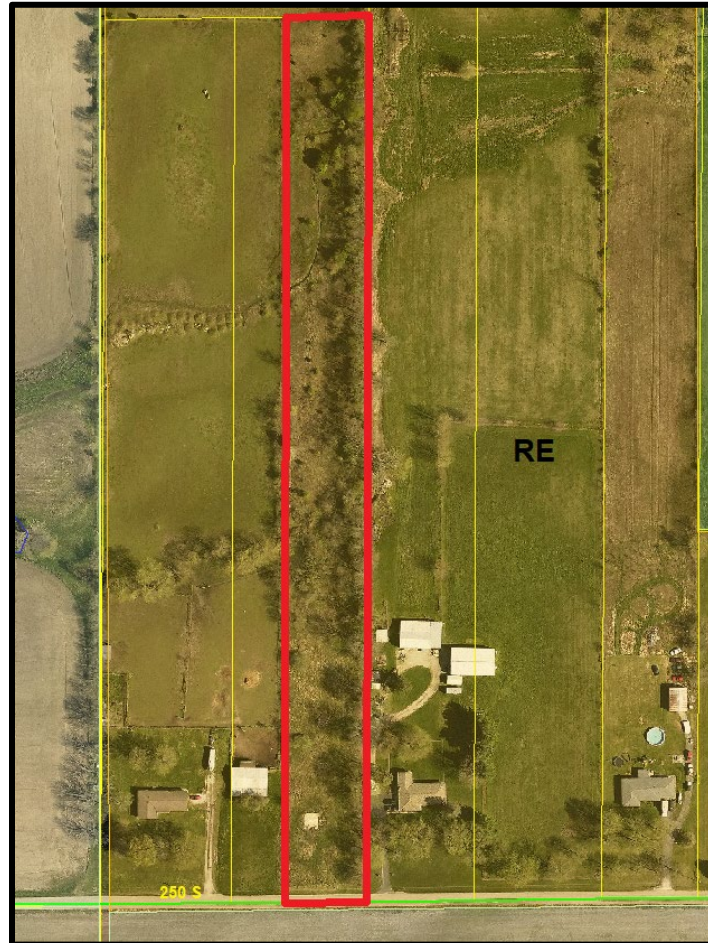
Code Requirement

UDO Section 2.12 – Minimum Side Yard Setback: 30-feet for primary structure

UDO Section 5.18 A 2 – A new driveway shall not be permitted to be installed within sixty (60) feet of another driveway.

Purpose of Requirements – Side setback requirements for primary structures in rural areas allow for open space, provide privacy between properties, and maintain the character of rural neighborhoods. Driveway separation requirements promote traffic safety by reducing the number of locations that a driver must watch for ingress and egress of other vehicles.

Property Map



Case Description

- The petitioner plans to construct a 40'x64' (2,560 sq. ft.) single-family residence with an attached garage. The lot previously included a single-family residence which sat less than 30-feet from the west property line.
- The lot does not comply with the 160-foot lot width requirement for properties in the RE District. However, the UDO designates the lot as a legal-nonconforming buildable lot due to creation of the lot prior to 2008.
- The lot has a width of 113-feet. Placement of a 64-foot-wide house on the lot only leaves a total of 49-feet split between the side setbacks on either side of the house. Therefore, the proposed house would sit 30-feet from the east property line, however, only 19-feet from the west property line.
- An existing utility pole would sit in front of the proposed attached garage. The petitioner has installed the driveway closer to the driveway on the adjoining lot to the west to avoid interference with the utility pole.

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: A reduced side-setback from private property would not impact the general public. The surrounding area includes relatively few driveways and no street intersections, therefore having two driveways close together should not pose a significant traffic conflict to 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 property to the west does not include a dwelling. Therefore, the reduced setback would not impact the privacy of a property with a dwelling or alter the character of the area. The driveway would comply with property line setback requirements and therefore would not impact adjacent property.

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

Staff Analysis: The narrow width of the lot prevents placement of a 60-foot-wide house on the lot in compliance with setback requirements. A utility pole prevents installation of a driveway further from the driveway on the adjacent lot.

Staff Recommendation

APPROVAL primarily because the narrow width of the lot prevents placement of a 60-foot-wide house on the lot in compliance with setback requirements. A utility pole prevents installation of a driveway further from the driveway on the adjacent lot.

Applicant/Owner Information

Applicant:	William & Shannon Callon 201 S Main Edinburgh, IN 46124	Owner:	Same
------------	---	--------	------

**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: William Callon Shanon Callon

Case #: _____

Location: 7988 West Shelby 250 South Pt NW 1/4 Sec. 13-12-5
Franklin, IN 46131

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.

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

Our property is only 113 foot wide. Our home is 64' long using a 30 side yard min. doesn't work. $30 + 64 + 30 = 124$ need to comply this request for a reduction on the west side to be reduced to 18'. The neighbor to the west is west home is approximately () from our common line neighbor has a barn that is approx 20' off the common line
- 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.

Other home along the county rd have attached garages, and most have storage buildings, or barns that would be permitted to be within 10' ft of per zone. Our proposed residence will also be over 100' from the bank of the road. All adjacent homes have the length have the ^{reside} are parallel with the road.
- 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.

Our proposed 40x64 residence would fit if turned 90' $30 + 40 + 30 = 100$ However this would be the only home placed this way. Has an existing well, and septic that have to be worked around

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.) family problem

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.) on the request

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.)

NA - no structure exists

(Existing)

Robert E. Etter, Surveying
 1135 W. State Road 44
 Franklin, IN 46131
 (317)736-7093

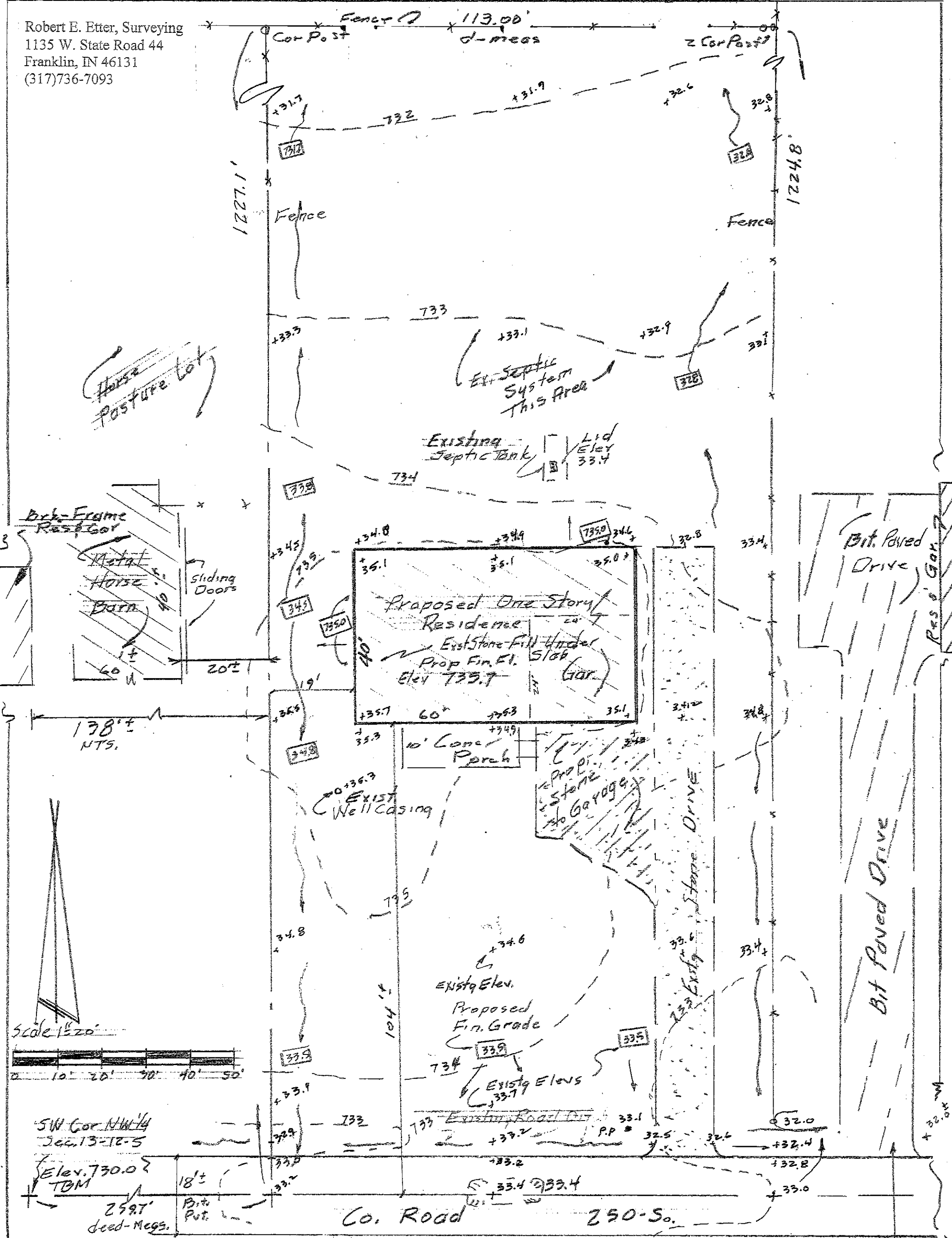


Exhibit "A"

A part of the Northwest Quarter of Section 13, Township 12 North, Range 5 East, Shelby County, Indiana, described as follows:

Commencing at the stone that marks the Southwest corner of the Quarter Section; thence North 88 degrees 50 minutes East 259.7 feet along the South line of the Quarter to a railroad spike and the true Point of Beginning of the tract herein described:

Thence North no degrees 18 minutes West 1227.1 feet to an iron pin; thence North 90 degrees no minutes East 113.0 feet to an iron pin; thence South no degrees 18 minutes East 1224.8 feet to an iron pin on the South line of the Quarter Section; thence South 88 degrees 50 minutes West 113.0 feet to the Point of Beginning, containing 3.180 acres more or less and subject to the right-of-way of the public highway on the South line of the tract.

Course data used in this description assumes the West line of the Quarter to run due North.

Note: No Drive For Existing Homes Have Drive Culverts

Plot Plan for New Residence
William & Shannon Callon
Site Address: 1988 W. 250 S. Shelby Co
Franklin, Ind. 46131
Pl. NW 1/4 Sect. 13-12-5, Shelby Co., Ind.
Aug. 25, 2021

Property Details

Location: 3615 W 1200 N, New Palestine, Moral Township.

Property Size: ~10-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

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	A (Hancock County)	Single-Family Residential
South	A1	Cropland
East	A1	Cropland
West	A1	Cropland

Staff Report

Case Number: BZA 21-24

Case Name: Charles Williams & Kayleigh Keener – Use & Development Standards Variances

Request

Variance of Use to allow for an event venue in the RE (Residential Estate) District.

Variances of Development Standards to allow:

1. Two primary structures (single-family residence & event venue in existing barn);
2. Grass parking area (paved surface & ADA compliant spaces required);
3. Small commercial sign in the RE District.

Code Requirement

UDO Section 2.11: RE District Intent, Permitted Uses, and Special Exception Uses

UDO Section 2.12: RE District Development Standards: Maximum Primary Structures – 1 per lot.

UDO Section 5.60 A: Surface: All ingress/egress onto a driveway or parking area and required parking lots shall utilize a paved surface of concrete, asphalt, brick pavers, or the like. Gravel, stone, rock, dirt, sand, or grass shall not be permitted as parking surfaces, except the A4 zoning district which may use gravel. Parking of vehicles shall not be permitted on lawns or other pervious-surfaced areas of a lot.

UDO Section 5.73: General Sign Standards

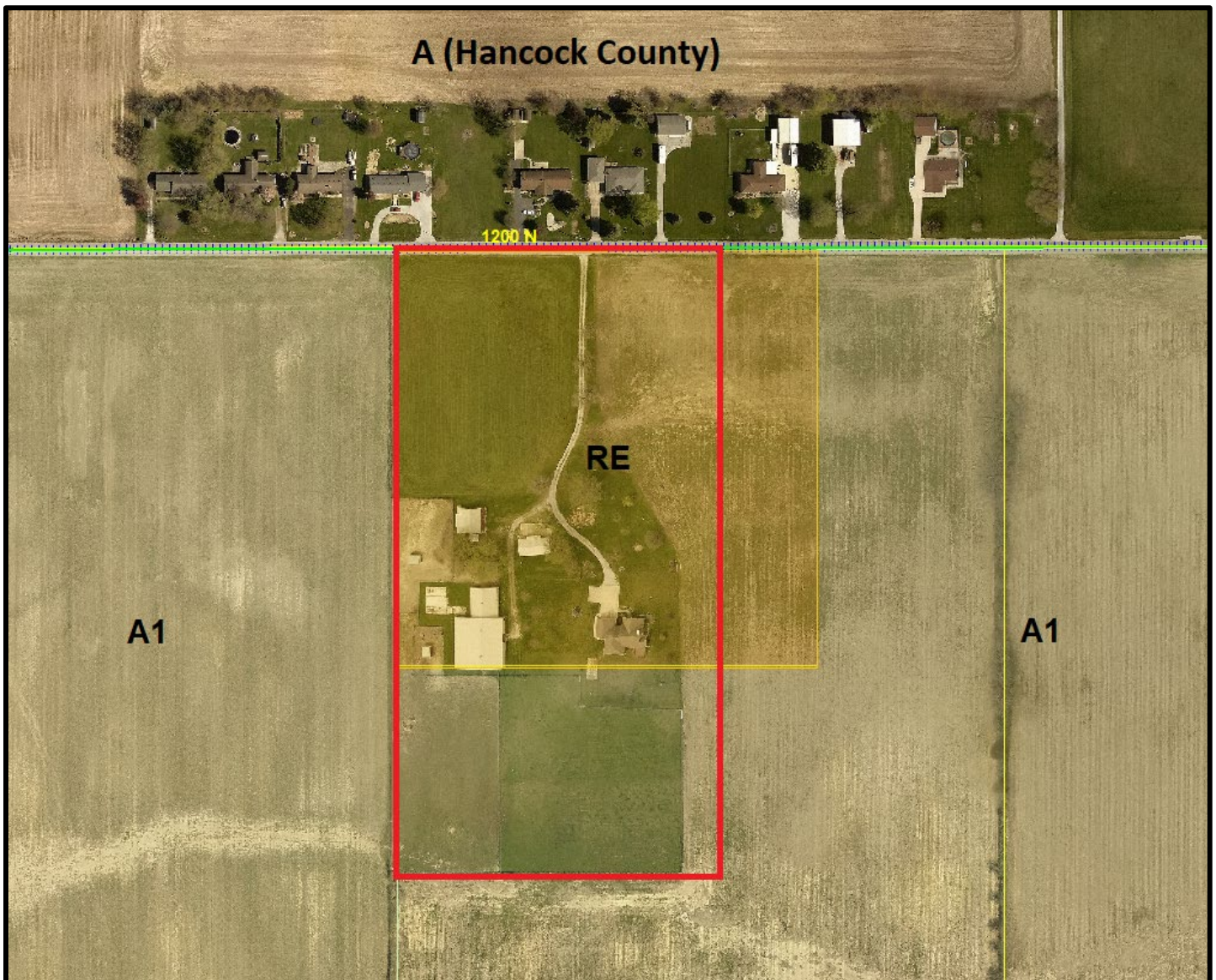
Purpose of Requirements

Permitting no more than one primary structure per lot maintains the intended development intensity of the RE District.

Paved driveways and parking areas eliminate potential nuisances such as dust and noise caused by the movement of vehicles on gravel or dirt parking areas. Paved parking areas can also have defined parking spaces and drive aisles, allowing for safe and efficient movement of vehicles.

Sign standards provide a balanced system of signage to facilitate communication between people and their environment and to avoid visual clutter that is potentially harmful to traffic safety, property values, community appearance, and the economic vitality of Shelby County.

Property Map



Case Description

- The petitioners currently have an option to purchase the property. They plan to remodel an existing barn for use as an event venue and plan to use a smaller existing barn for storage related to the venue. They plan to use the existing dwelling as their personal residence and other existing structures as residential accessory structures.

- The petitioners plan to completely insulate the barn and add covered patios, bathrooms, a kitchen area, and plumbing. They also plan to add additional landscaping around the barn.
- The petitioners plan to use the northwest portion of the property as a grass parking area and may add an additional entrance to the parking area from 1200 N. The additional entrance would comply with UDO standards and would require a permit from the Highway Department.
- The petitioners' statement of intent includes the following:
 - Hours of Operation: open to the public seven days a week, with office hours from 9AM – 5PM and events ending at 11PM on weekends.
 - Maximum number of guests compliant with fire safety regulations for the venue space.
 - Moderate wood sign near driveway.
 - Waste disposal with truck/trailer after each event.
- The petitioners must obtain approval from the State Health Department for water and waste disposal systems prior to use of the barn for public events.
- The petitioners must obtain a State Design Release prior to use of the barn for public events and a commercial remodel permit from the County.
- The surrounding area includes primarily agricultural land used for crop production, however ten properties including single-family residences located relatively close to 1200 N are located directly north of the property.

Staff Analysis of Findings of Fact

Use Variance

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

Staff Analysis: Review and approval of the proposed event barn by the State Division of Fire and Building Safety and State Department of Health would ensure that use of the event barn would not impact the public health, safety, morals, and general welfare. The proposed parking area includes enough space to allow for the safe and efficient movement of vehicles which would prevent congestion of vehicles on the public road.

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

Staff Analysis: The distance between the event venue and the property lines would mitigate the impact of noise on adjacent properties and prevent landscaping materials or unintentional waste disposal from impacting the ability to use adjoining agricultural land for crop production. Proposed stipulations limiting sound devices to indoors and limiting hours of operation would also mitigate noise impacts. Proposed stipulations regarding lighting would limit the impact of light and glare on adjacent property.

3. **State Requirement: The need for the variance arises from some condition peculiar to the property involved.**

Staff Analysis: The property includes several agricultural structures, includes more acreage than typical residential properties, and adjoins agricultural land. Therefore, the property is suitable for a low intensity, agrotourism related use.

4. State Requirement: 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.

Staff Analysis: A strict application of the ordinance would not allow for a low intensity agrotourism related use that the property can support, and which would not pose a nuisance to adjacent property.

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

Staff Analysis: The Plan encourages agritourism uses in agricultural areas. The proposed use would provide a venue for the public to enjoy the agricultural character of the property and surrounding area. The proposed use can be adequately served by State approved well and septic, and county roads.

Development Standards Variances

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

Staff Analysis: Both primary structures currently exist on the property. Paving of the entrance of to the driveway would limit the accumulation of dust on the public road. The designated parking area provides enough area for the efficient movement of vehicles. A sign not exceeding six (6) feet in height and twenty (20) square feet in area and setback at least five (5) feet from the right-of-way complies with ordinance requirements for low intensity commercial uses.

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 a variance to designate two existing structures as primary structures would not change the aesthetic quality of the property. Requiring a paved driveway and parking area would detract from the existing agricultural character of the property. A sign not exceeding six (6) feet in height and twenty (20) square feet in area and setback at least five (5) feet from the right-of-way complies with ordinance requirements for low intensity commercial uses.

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 detract from the rural character of the property and would not allow for a low intensity, agrotourism related use that the property can support, and which would not pose a nuisance to adjacent property

Staff Recommendation

Staff recommends **APPROVAL** primarily because the existing conditions of the property, character of the area, and the Comprehensive Plan support a low intensity, agrotourism related use. However, the Board should consider stipulations to mitigate potential impacts to adjacent properties, particularly the residential properties on the north side of 1200 N.

Recommended Stipulations:

1. A State Design Release and County Remodel Permit shall be obtained and any improvements to the barn required by the State shall be completed prior to use of the building for a public event venue.
2. Written approval from the State Health Department shall be obtained and any improvements to the property required by the State shall be completed prior to use of the property for public events.
3. All uses and structures associated with the event venue, including the parking area and landscaping, shall be located at least 200-feet from the edge of pavement of W 1200 N and at least 30-feet from the property lines. Any entrance driveway is exempt from this requirement.
4. Any driveway used for the event venue shall be paved a minimum of 25-feet from the center of W 1200 N.
5. At least one ADA compliant parking space shall be installed near the entrance to the event barn.
6. Devices used to project sound outdoors shall be operated for no longer than one (1) hour per day and operated no later than 6 PM.
7. Contracted service providers utilizing vehicles Class 4 vehicles or larger and all patrons shall vacate the premises by 11:30 PM each night.
8. Any lighting fixtures shall be full-cutoff fixtures and no light shall reach a property line with greater than five (5) lux.
9. One sign associated with the business shall be permitted. The sign shall not exceed six (6) feet in height and twenty (20) square feet in area and shall be setback at least five (5) feet from the right-of-way. The sign shall comply with all other requirements identified in the UDO.

*Notes on conditions

- Conditions 1 and 2 are required for all commercial developments in the County.
- Condition 3 is intended to limit impacts to adjacent residential properties.
- Condition 4 is intended to limit the accumulation of dust on the public road.
- The petitioner has requested condition 6 allow for operation of sound outdoors from two hours per day no later than 8 PM. Staff initially recommended no outdoor projection of sound, however compromised at 1 hour per day no later that 6 PM.
- Conditions 8 and 9 are ordinance requirements for properties in commercial districts.

Applicant/Owner Information

Applicant:	Charles Williams & Kayleigh Keener 3615 W 1200 N New Palestine, IN 46163	Owner:	Michael & Denise Gatewood 3615 W 1200 N New Palestine, IN 46163
------------	--	--------	---

View of property from 1200 N



Google Street View – September 2013

View of properties on north side of 1200 N from proposed parking area



Realtor.com – 2021

STATEMENT OF INTENT (ONLY REQUIRED FOR VARIANCE 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: Turn barn into Wedding
Event Venues

2. Days & Hours of Operation: 7 days a week office 9-5pm Events cut off 11pm
on weekends.

3. Maximum Number of Customers per Day/Week/Month: Max Capacity will be compliant
with Fire safety and regulations.

4. Type and Frequency of Deliveries: N/A

5. Description of any Outdoor Storage: N/A All storage is inside.

6. Description, Size, and Placement of any Signage: Moderate wood sign, near road and
driveway. Size - Moderate.

7. Description of Waste Disposal: Will handle with Truck/Trailer after each
event.

8. Existing and/or Proposed Building and Site Improvements Pertaining to Proposed Use (ex. parking lot, landscaping, commercial upgrades to building, etc.): Concrete, insulate whole building,
plumbing, Extend roof for patio, parking - maintain grass. Add a
good deal of landscaping and some to create privacy. Heating air

**USE VARIANCE
FINDINGS OF FACT**

Applicant: Charles Williams & Kayliegh Keener

Case #: _____

Location: 3615 W 1200 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 Use 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.

Venue and Customers will hold Insurance. Follow all protocols for safety equip
Fire codes, Max capacity. All parking will be on property, not the road.
Follow all state building codes. Expense trash properly.

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.

Entire venue will be insulated & temp controlled. Events will have cut off times. Parking
will be as close to venue as possible, away from the road. All food will be catered.
Venue is in rear of property. Landscaping will be well maintained and used for privacy.

3. **Practical Difficulty:** The need for the variance arises from some condition particular to the property involved.

Great location with growth heading in New Palestine direction. Septic location TBD
We are mostly surrounded by farm land, Venue being located at rear of property
will not bother neighbors. Excited to be part of New Palestine community.

4. **Unnecessary Hardship:** The strict application of the terms of the Shelby County Unified Development Ordinance will constitute an unnecessary hardship as they are applied to the property for which the variance is sought.

Septic type and location TBD

5. **Comprehensive Plan:** The granting of the variance does not interfere substantially with the Comprehensive Plan.

To operate Venue Commercial and residential land

**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: Charles Williams & Kayleigh Keener

Case #: _____

Location: 3615 W 1200 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.

Venue and Customers will have Insurance. Follow all protocols for safety equip, fire codes, max capacity. All parking will be on property, not the road, follow all state building codes. Dispose trash properly.

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.

Entire Venue will be insulated, heated, cooled. Events will have cut off times. Parking will be as close to venue as possible, away from the road. All food will be catered. Venue is in rear of property. Well maintained, landscaping & use for privacy.

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.

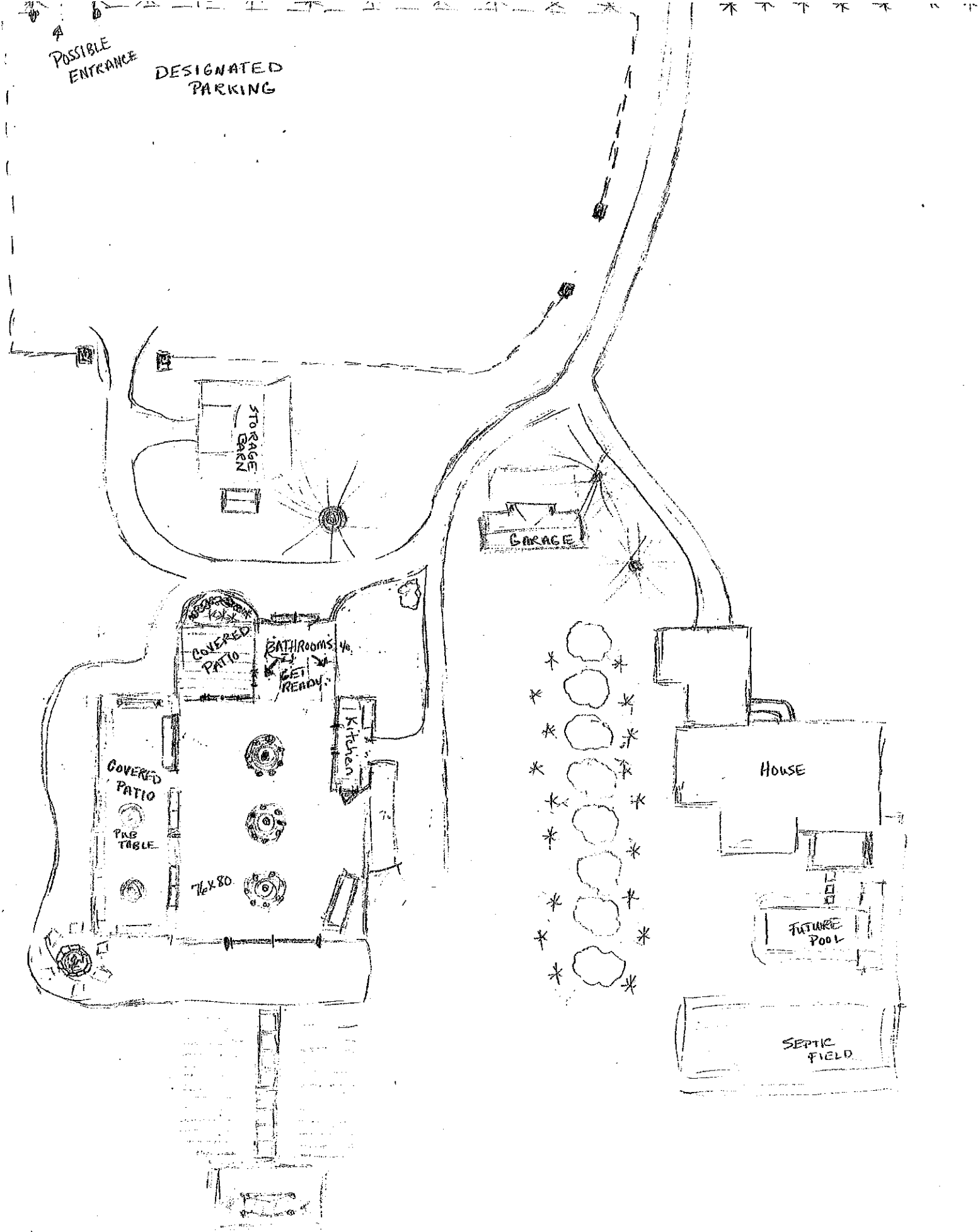
Barn is in back of lot, plenty of parking space. Home development is heading in New Palestine direction.

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.)



RESOLUTION NO. _____

**RESOLUTION OF THE SHELBY COUNTY BOARD OF ZONING APPEALS
ESTABLISHING THE POLICY BY WHICH MEMBERS OF THE BOARD OF ZONING
APPEALS MAY PARTICIPATE BY ELECTRONIC MEANS OF COMMUNICATION**

WHEREAS, P.L. 88-2021 (HEA 1437), SEC. 5, amended Ind. Code § 5-14-1.5 et seq. (Act), effective April 20, 2021 by amending Ind. Code § 5-14-1.5-3.5 to prescribe new requirements by which members of the governing body of a public agency of a political subdivision may participate in a meeting by any electronic means of communication;

WHEREAS, a member of the governing body may participate by any means of communication that allows all participating members of the governing body to simultaneously communicate with each other; and except for a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting;

WHEREAS, the Act requires the governing body to adopt a written policy establishing the procedures that apply to a member's participation in a meeting by an electronic means of communication and may adopt procedures that are more restrictive than the procedures established by Ind. Code § 5-14-1.5-3.5(d); and

WHEREAS, the Board of Zoning Appeals "BZA" is a governing body of Shelby County, Indiana:

NOW, THEREFORE, BE IT RESOLVED BY THE SHELBY COUNTY BZA, THAT:

Section 1. General

- (a) The provisions of the Ind. Code § 5-14-1.5 et seq, including definitions, apply to this resolution.
- (b) This resolution shall be known as the "Electronic Meetings Policy" of the BZA and applies to the BZA and any committee appointed directly by the BZA or its presiding officer.

Section 2. Electronic Meetings

- (a) Subject to Section 3, any member may participate in a meeting by any electronic means of communication that:
 - (1) allows all participating members of the governing body to simultaneously communicate with each other; and
 - (2) other than a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting.
- (b) A member who participates by an electronic means of communication:
 - (1) shall be considered present for purposes of establishing a quorum;
 - (2) and may participate in final action only if the member can be seen and heard.
- (c) All votes taken during a meeting at which at least one (1) member participates by an electronic means of communication must be taken by roll call vote.

Section 3. BZA Member Limitations

- (a) At least fifty percent (50%) of the members must be physically present at a meeting at which a member will participate by means of electronic communication. Not more than fifty percent (50%) of the members may participate by an electronic means of communication at that same meeting.
- (b) A member may not attend more than fifty percent (50%) of the meetings in a calendar year by an electronic means of communication, unless the member's electronic participation is due to:
 - (1) military service;
 - (2) illness or other medical condition;
 - (3) death of a relative; or
 - (4) an emergency involving actual or threatened injury to persons or property.
- (c) A member may attend two (2) consecutive meetings (a set of meetings) by electronic communication. A member must attend in person at least one (1) meeting between sets of meetings that the member attends by electronic communication, unless the member's absence is due to:
 - (1) military service;
 - (2) illness or other medical condition;
 - (3) death of a relative; or
 - (4) an emergency involving actual or threatened injury to persons or property

Section 4. Minutes or Memoranda

- (a) The minutes or memoranda of a meeting at which any member participates by electronic means of communication must:
 - (1) identify each member who:
 - a. was physically present at the meeting;
 - b. participated in the meeting by electronic means of communication;
 - and
 - c. was absent; and
 - (2) identify the electronic means of communication by which:
 - a. members participated in the meeting; and
 - b. members of the public attended and observed the meeting, if the meeting was not an executive session.

Section 5. Declared Emergency

- (a) If an emergency is declared by:
 - (1) the governor under Ind. Code § 10-14-3-12; or
 - (2) the Commissioners under Ind. Code § 10-14-3-29;members are not required to be physically present for a meeting until the emergency is terminated.
- (b) Members may participate in a meeting by any means of communication provided that:
 - (1) At least a quorum of the members participate in the meeting by means of electronic communication or in person.
 - (2) The public may simultaneously attend and observe the meeting unless the meeting is an executive session.

- (3) The minutes or memoranda of the meeting must comply with Section 4 of this resolution.
- (c) All votes taken during a meeting at which at least one member participates by an electronic means of communication must be taken by roll call vote.

Section 6. Procedures for Electronic Participation

- (a) Except in the case of an emergency pursuant to Section 5, a member of the BZA must satisfy the following requirements prior to participating electronically:
 - (1) Notify the Planning Department Director no later than 24 hours prior to the meeting of their desire to participate via electronic communication. The notice shall include:
 - a. The date and time of the meeting; and
 - b. If any of the following reasons for electronic participation apply:
 - i. Military service,
 - ii. Illness,
 - iii. Death of a relative, or
 - iv. an emergency involving actual or threatened injury to persons or property.
 - (2) Ensure the member has the appropriate technology to participate electronically.
- (b) A member of the public who desires to participate in a BZA meeting, not just attend and observe, shall satisfy the following requirements prior to participating electronically:
 - (1) Notify in writing the Planning Department Director no later than 24 hours prior to the meeting of their desire to participate via electronic communication. The notice shall include:
 - a. Names of all individuals who desire to participate via electronic communication for the specific agenda item;
 - b. Email addresses for each individual identified above;
 - c. Date and time of the meeting;
 - d. Reason for participation (agenda item);
 - e. Any materials the member of the public would like the BZA members to have at the meeting; and
 - f. If the member of the public is also the Petitioner in front of the BZA, identify one person who will appear in person.
 - (2) Ensure the member of the public has appropriate technology to participate electronically.
 - (3) Petitioners shall have one member of their team appear in person at the meeting. All others may request to appear virtually under Section 6(b).
 - (4) The Planning Department Director may refuse electronic participation due to technological limitations or former abuse of electronic participation to any member of the public in their sole discretion.
- (c) The Planning Department Director shall review the minutes, memorandum, and any other documentation they deem appropriate to ensure the BZA member's participation via electronic means is in compliance with Section 3.

Section 7. A technological failure in an electronic means of communication that disrupts or prevents members of the Board or the public who are not physically present from attending and observing the meeting does not affect the validity of an action taken by the Board at the meeting if the Board members physically present and those participating electronically without technological failure satisfy Board's voting requirements (i.e., majority vote).

Section 8. No Board member may participate by means of electronic communication in a meeting at which the Board is attempting to take final action to:

- (1) adopt a budget;
- (2) make a reduction in personnel;
- (3) initiate a referendum;
- (4) establish or increase a fee;
- (5) establish or increase a penalty;
- (6) exercise the power of eminent domain; or
- (7) establish, impose, raise, or renew a tax.

Section 9. This resolution shall be effective from and after adoption by this Board and compliance with Indiana Code § 36-5-2-10.

ADOPTED THIS _____ DAY OF _____, 2021 BY SHELBY COUNTY, INDIANA, BY
AND THROUGH ITS BZA.

SHELBY COUNTY BZA

President
Kevin Carson

ATTEST:

Secretary
Dave Klene