

CITY OF SHELBYVILLE

Adam M. Rude  
Director



Allan Henderson  
Deputy Director

BOARD OF ZONING APPEALS

MEETING DATE: 2/8/2022

<b>Case #:</b>	BZA 2022-04: 402 Foxridge Court, DSV			
<b>Petitioner's Name:</b>	Charles Marshall			
<b>Owner's Name:</b>	Charles Marshall			
<b>Petitioner's Representative:</b>	N/A			
<b>Address of Property:</b>	402 Foxridge Court, Shelbyville, Indiana			
<b>Subject Property Zoning Classification:</b>	R 1, Single-Family Residential			
<b>Comprehensive Future Land use:</b>	Single-Family Residential			
	<b>North</b>	<b>East</b>	<b>South</b>	<b>West</b>
<b>Surrounding Properties' Zoning Classifications:</b>	R1 – Single Family Residential	No Zoning	No Zoning	R1 – Single Family Residential
<b>Surrounding Properties' Comprehensive Future Land Use</b>	Single Family Residential	Conservation	Conservation	Single Family Residential
<b>History:</b>	The property is a single-family residential home located in the Foxridge Subdivision. The subdivision started to build out in the early 1990's, but never fully built out. Recently Imperial Construction Services started building on two lots in the subdivision and five (5) additional lots have been purchased for single-family home construction.			
<b>Vicinity Map:</b>				
<b>Action Requested:</b>	Approval of one development standards variance, from UDO 5.57 Sidewalk Standards to not installed a required sidewalk when a new primary structure is constructed.			

1. In the R 1, Single-Family Residential zoning district, a sidewalk is required to be installed when a new primary structure is constructed or when a primary structure is enlarged by twenty (20) percent or greater. Sidewalks are also required to be installed in front of any lot created after the effective date of the Unified Development Ordinance once it has sat vacant for twenty-four (24) months (if a single lot was created), or twenty-four (24) months from the date the first certificate of occupancy was issued (if a multiple-lot subdivision) and where infrastructure exists.

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### **Variance From UDO 5.57 Sidewalk Standards**

Finding of Fact #1 – That the approval of the Development Standards Variance will not be injurious to the public health, safety, morals and general welfare of the community.

*The applicant has provided the following response to Finding of Fact #1: “Most of the subdivision has already been constructed without sidewalks and not having them installed on the remaining lots will not affect the existing properties within Foxridge.”*

The planning staff has determined that the requested development standards variance would not be injurious to the public health, safety, morals, and general welfare of the community. The requested variance is in keeping with the existing character of the neighborhood; when the subdivision was approved and started building in the early 1990’s sidewalks were not required and thus not installed.

*Finding #1 has been satisfied by the applicant*

Finding of Fact #2 – That the use and value of the area adjacent to the subject property seeking a Development Standards Variance will not be affected in a substantially adverse manner.

*The applicant has provided the following response to Finding of Fact #2: “There are currently no sidewalks on those properties and not installing the sidewalks will have no effect as the sidewalks wouldn’t be usable and may actually be an eyesore.”*

The planning staff has determined that the requested variance should not have a substantially adverse effect on the adjacent area. As previously mentioned, none of the surrounding homes have sidewalks because when the subdivision was developed in the early 1990’s sidewalks were not required. The entire subdivision was approved without including sidewalks.

*Finding #2 has been satisfied by the applicant*

Finding of Fact #3 – That the strict application of the terms of the ordinance will result in practical difficulties in the use of the property. The practical difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.

*The applicant has provided the following response to Finding of Fact #3: “The difficulty is one of the aesthetics as well as additional cost of sidewalk that isn’t usable. The parcels located in the cul-de-sac only have 5’ between the curb and right-of-way. There are utilities in this right-of-way width and there isn’t enough room to install the sidewalk correctly.”*

The planning staff has determined that the applicant has a practical difficulty that is neither self-imposed nor financial in nature. Because the subdivision was approved without the inclusion of sidewalks, utilities have been located in the front yard and right-of-way along the street where sidewalks would normally be constructed. There is a practical difficulty in relocating the utilities that is not self-imposed by the current owner of the properties.

*Finding #3 has been satisfied by the applicant*

**STAFF RECOMMENDATION: APPROVAL WITH CONDITIONS**

1. The property owner agrees to install a sidewalk if or when an immediately adjacent property owner installs a sidewalk across the front of their property.

**DEVELOPMENT STANDARDS VARIANCE: BZA 2022-04: 402 Foxridge Court, DSV**

**FINDINGS OF FACT BY THE SHELBYVILLE BOARD OF ZONING APPEALS**

**Staff Prepared**

Motion:

(I) would like to make a motion to approve the requested development standard variance from UDO 5.57 to not install a sidewalk during the construction of the single-family residence at 402 Foxridge Court pursuant to the condition and the findings of fact presented in the planning staff's report.

- 1.  The approval of the Development Standards Variance **will not** be injurious to the public health, safety, morals and general welfare of the community.
- The approval of the Development Standards Variance **will** be injurious to the public health, safety, morals and general welfare of the community.
- 2.  The use and value of the area adjacent to the subject property seeking a Development Standards Variance **will not** be affected in a substantially adverse manner.
- The use and value of the area adjacent to the subject property seeking a Development Standards Variance **will** be affected in a substantially adverse manner.
- 3.  The strict application of the terms of the ordinance **will** result in practical difficulties in the use of the property. The practical difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.
- The strict application of the terms of the ordinance **will not** result in practical difficulties in the use of the property. The practical difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.

Additional conditions imposed by the Board of Zoning Appeals:

- 1.
- 2.
- 3.

Shelbyville Board of Zoning Appeals

By: \_\_\_\_\_

Chairperson

Attest: \_\_\_\_\_

Secretary



# DEVELOPMENT STANDARD VARIANCE APPLICATION

Shelbyville Plan Commission  
44 West Washington Street  
Shelbyville, IN 46176  
P: 317.392.5102

RECEIVED /  FILED

JAN 25 2022

For Office Use Only	
Case # _____	
Hearing Date: _____	
Fees: _____	
Approved _____	Denied _____

1.

**Applicant** (person or company requesting variance)

Name: Charles Marshall  
Address: 4406 E 100 D  
Shelbyville, IN 46176  
Phone Number: 317-800-0383  
Fax Number: \_\_\_\_\_  
Email Address: chaskimm@gmail.com

**Property Owners Information** (if different than applicant)

Name: N/A  
Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_

2.

**Applicant's Attorney/Representative**

Name: N/A  
Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_

**Project Engineer**

Name: N/A  
Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_

**4. Project Information:**

Address of Property: 402 Fouridge Ct, Shelbyville, IN 46176 (Lot 21)  
Current Zoning: R1 Single Family

Existing Use of Property: Single Family

5. Number of Variances Requested 1

**6. Applicable Ordinance Section Number (s)**

(Please indicate ALL applicable Zoning Ordinance Section Numbers for your petition; including Article, Section, and Page Number)

UDO 5.57 Sidewalk Standard

The undersigned states the above information is true and correct as (s)he is informed and believes.

Signature of Applicant: Charles Marshall Date: 1/21/22

State of Indiana )  
County of Shelby )SS:

Subscribed and sworn to before me this 21 day of January 2022.

Jen Brown  
Notary Public  
Residing in Rush County

Jessica Brown  
Printed  
My Commission Expires: 5-29-2022







**LETTER OF INTENT  
BOARD OF ZONING APPEALS**

Please write a brief summary of the project and the variance(s) requested. You may submit on this form or on your own letterhead.

I own four lots at Foxridge Subdivision. This subdivision was platted, infrastructure built and many of the lots have houses from the '90's. There were nine lots which didn't have houses built and I own four of them. The original subdivision was not designed or constructed to include sidewalks and throughout the subdivision there are electric and telephone boxes, trees, driveways and various items that would be in the way of a comprehensive sidewalk.

The lots that do not have sidewalk are scattered throughout the subdivision with no more than two being adjacent to one another.

I am requesting a variance from the UDO 5.57 sidewalk standard which would require installation of the sidewalk front of each property. This would result in installation of the sidewalks in a almost random fashion throughout the subdivision with very little likelihood that it will ever function in a useful fashion. Instead they would be an eyesore to the community and the owners of these parcels.





**DEVELOPMENT STANDARD VARIANCE  
FINDINGS OF FACT**

Petitioner's Name: Charles Marshall

Location: Foxridge Subdivision

Variance for: USD 5.57 Sidewalk Standards

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

1. **General Welfare:** Explain why granting the request for a development standard variance will not be harmful to the public health, safety and general welfare of the City of Shelbyville.  
Most of the subdivision has already been constructed without sidewalks and not having them installed on the remaining lots will not affect the existing properties within Foxridge

2. **Adjacent Property:** Explain why the development standard variance request will not affect the use and the value of adjacent properties.  
There are currently no sidewalks on those properties and not installing the sidewalks will have no effect as the sidewalks wouldn't be usable and may actually be an eyesore.

3. **Practical Difficulty:** Please state the difficulties that will be faced if the project is not granted the requested development standard variance.  
The difficulty is one of aesthetics as well as additional cost of a sidewalk that isn't usable.  
The parcels located in the cul-de-sac only have 5' between the curb and the right-of-way  
There are utilities in this right-of-way width and there isn't enough room to install the sidewalk correctly.



