

CITY OF SHELBYVILLE

Adam M. Rude
Director



Allan Henderson
Deputy Director

BOARD OF ZONING APPEALS

MEETING DATE: 11/9/2022

Case #:	BZA 2022-19: Gillman’s Lumber Center, DSV			
Petitioner’s Name:	McNeely Law LLP			
Owner’s Name:	Charles Gillman			
Petitioner’s Representative:	Jacob Brattain			
Address of Property:	200 Lee Boulevard, Shelbyville, Indiana			
Subject Property Zoning Classification:	BH – Business Highway			
Comprehensive Future Land use:	Gateway Mixed Use			
	North	East	South	West
Surrounding Properties’ Zoning Classifications:	BH – Business Highway	BH – Business Highway	BH – Business Highway	BH – Business Highway
Surrounding Properties’ Comprehensive Future Land Use	Gateway/ Mixed Use	Gateway/ Mixed Use	Gateway/ Mixed Use	Gateway/ Mixed Use
History:	The site is currently a vacant lot between Lee Boulevard and I-74 with approved site development plans from PC.2021-30.			
Vicinity Map:				
Action Requested:	Approval of six development standards variances, one from UDO 5.19(A) Business Fence, Hedge and Wall Standards, Height, one from UDO 5.08(C)(1) Business Architectural Standards, Building Materials for an Accessory Structure, and one from UDO 5.08 (A)(1) Business Architectural Standards, Façade, one from UDO 5.08(A)(4) Business Architectural Standards, one from UDO 5.08(B)(2) Business Architectural Standards, Roof and one from 5.08(C)(1) Business Architectural Standards, Building Materials for a Primary Structure constructed for Gillman’s Lumber Center at 200 Lee Boulevard, Shelbyville, Indiana.			

VARIANCES FOR ACCESSORY STRUCTURE – LUMBER BARN

1. In the BH – Business Highway District fences are allowed up to eight (8) feet in height. Additionally, UDO 5.43 Outdoor Display Area Standards requires outdoor display areas more than more than twenty-five (25) feet from the front façade or sixty (60) feet from the side façade of the primary structure be screened with an ornate fence or landscaping. Gillman’s Lumber Center is requesting a fence twelve (12) foot privacy fence around the lumber barn to conceal and store outdoor sales merchandising.

A. Variance From UDO 5.19(A) Business Fence, Hedge and Wall 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: “The requested variance will ensure that all of the operations of the proposed use will be screened from public view; including when driving by on the Lee Boulevard, driving on I-74, and visiting any adjacent business.”

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 spirit of the UDO by providing screening of all outdoor sales material stored on the lumber barn site as well as on the building itself. However, it is important to break-up long uninterrupted sections of facades, walls, and fences. In this case, Planning Staff recommends using vertical landscaping to break-up large sections of the fence.

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: “The surrounding properties are all commercial in nature, and the variance requested will not affect the use or value of these properties. The request will allow for a higher fence, increasing the screening of the Property, ensuring that no storage or operations associated with the proposed use will be seen from any neighboring businesses. We believe that the new proposed use will increase interest and traffic in the area, which would actually increase the value of adjacent properties. The Property was previously vacant land and new development of complementary uses, as is the case here, typically benefits all parties.”

The planning staff has determined that the requested variance should not have a substantially adverse effect on the adjacent area. The site is in a BH – Business Highway district with numerous stores including Walmart immediately adjacent to the site. A taller fence is in keeping with the intent of the district and UDO, but the length of the fence on the Lee Boulevard side of the property will be in excess of five hundred (500) feet. In this case, Planning Staff recommends using vertical landscaping to break-up large sections of the fence.

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: "If the requested variance is not granted, Gillman will not be able to adequately screen outdoor storage and activities from the public view due to the increase in height of the interstate along the back side of the Lumber Shed."

The planning staff has determined that the applicant has a practical difficulty that is neither self-imposed nor financial in nature. The UDO requires screening of outdoor sales material and because of the elevation differences from Lee Boulevard and Interstate and the design of the lumber barn structure that provides built-in storage a taller fence is required to adequately screen the lumber yard.

Finding #3 has been satisfied by the applicant

STAFF RECOMMENDATION: APPROVAL WITH CONDITIONS

1. Provide vertical landscaping elements at an interval of not more than eight (8) feet to break-up the section of fence panel.

DEVELOPMENT STANDARDS VARIANCE: BZA 2022-19: Gillman’s Lumber Center, 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 5.19(A) to increase the height of the fence to twelve (12) feet at Gillman’s Lumber Center 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

2. The BH – Business Highway District has meticulously crafted architectural standards prescribed in the UDO to ensure a high quality and non-monotonous design of buildings. UDO 5.08 Architectural Standards requires exterior materials to be a combination of brick; wood; stone; tinted and textured concrete masonry units; architectural precast concrete, architectural metal; and other products that replicate the appearance and durability of these materials. The use of smooth faced concrete block, un-textured smooth faced tilt-up concrete panels, and standing seam steel panels are prohibited. Gillman’s Lumber Center is requesting to use standing seam metal panels with exposed fasteners on their accessory structure, the Lumber Barn.

B. Variance From UDO 5.08(C)(1) Business and Architectural Standards, Building Materials

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: “The requested variance will allow for exposed-fastener metal siding that will not be seen by the public from any view outside of the proposed privacy fencing. Almost all lumber yards, including Menards stores built in Marion and Johnson counties, 84-Lumber in Johnson County, and Gillman Home Centers Built throughout the state and Ohio, utilize exposed fastener metal siding, regardless of if the area will be screened, and there are no apparent issues with the materials used at these sites.”

The planning staff has determined that the requested development standards variance would be injurious to the public morals, and general welfare of the community. Section 5.08 (C)(1) specifically prohibits the use of standing seam metal in the BH – Business Highway District. Allowing the use of this building material would not be in keeping with the intent of the UDO and would allow a lower quality of material within the highly visible commercial corridor.

Finding #1 has not been fully 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: “The surrounding properties are all commercial in nature, and the variance requested will not affect the use or value of these properties. The request will allow for the use of exposed-fastener metal siding on the Lumber Shed, which should be completely screened from all adjacent properties, and the interstate. We believe that the new proposed use will increase interest and traffic in the area, which would actually increase the value of adjacent properties. The Property was previously vacant land and new development of complementary uses, as is the case here, typically benefits all parties.”

The planning staff has determined that the requested variance will have a substantial adverse effect on the adjacent area. The UDO prescribes this standard to ensure all current and future development be “aesthetically pleasing and compatible with the materials and colors of adjoining neighborhoods”. Surrounding developments have strived to meet the intent of the ordinance by using high quality material that adds value to the business corridor. Allowing standing seam metal, even on an accessory structure, will set a precedent along one of the City’s busiest retail corridors.

Finding #2 has not been fully 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: “If the requested variance is not granted, Gillman be forced to use siding that is not readily available and is difficult to replace if damaged. Unfortunately, with deliveries, pickups, unloading, and unpackaging, the siding on the Lumber Shed is regularly damaged at other locations Gillman operates. By allowing a standard siding to be used, it will allow for quicker and easier repairs of any potential damages.”

The planning staff has determined that the applicant has a practical difficulty that is self-imposed and financial in nature. A set of civil and architectural plans for the accessory structure, lumber barn was approved by the Plan Commission on February 28, 2022. These plans included using architectural metal panels without exposed fasteners. Now Gillman’s Lumber Center is proposing to change the already approved material when they have demonstrated they are able to satisfy the requirements of the UDO.

Finding #3 has not been fully satisfied by the applicant

STAFF RECOMMENDATION: DENIAL

DEVELOPMENT STANDARDS VARIANCE: BZA 2022-19: Gillman’s Lumber Center, DSV

FINDINGS OF FACT BY THE SHELBYVILLE BOARD OF ZONING APPEALS

Staff Prepared

Motion:

(I) would like to make a motion to _____ the requested development standard variance from UDO 5.08(C)(1) to allow standing seam metal to be used on the accessory structure lumber barn at Gillman’s Lumber Center 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:

- 4.
- 5.
- 6.

Shelbyville Board of Zoning Appeals

By: _____

Chairperson

Attest: _____

Secretary

VARIANCES FOR PRIMARY STRUCTURE – MAIN STORE

3. In the BH – Business Highway District a primary structure façade is required to include no less than three (3) elements that repeat in a pattern with at least one of the elements repeating horizontally. Buildings can choose from the following list to accomplish the required three (3) elements a) color change, texture change, c) material module change or d) change in the architectural or structural plane. Gillman’s Lumber Center was meeting the requirements of the UDO by providing two (2) different materials, brick and architectural metal panels, and projection of the wall plane. Gillman’s Lumber center is requesting to eliminate the brick material and only provide for two façade elements on the west elevation of the building.

C. Variance From UDO 5.08(A)(1) Business Architectural Standards, Facade

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: “The requested variance will allow for metal siding to be used on the entire facade that faces 1-7 4, as opposed to the other three sides which will be skirted in brick. All sides of the Retail Store that face other businesses will meet all required development standards, and the metal siding should be minimally visible, if at all, as cars pass the backside of the building on the interstate.”

The planning staff has determined that the requested development standards variance would be injurious to the public morals, and general welfare of the community. As a community, Shelbyville believes that highly visible properties along our busiest and most visited corridors should have substantial architectural features that enhance, not diminish, the standards of the community, this is one of the reasons Gillman’s Lumber Center chose this location. In addition, case law also supports the stance that aesthetics falls within the general welfare of the community.

Finding #1 has not 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: “The surrounding properties are all commercial in nature, and the variance requested will not affect the use or value of these properties. The request will allow for the use of all metal siding (no brick skirting) on the facade of the Retail Store facing the interstate, which should be completely screened from all adjacent properties, and be minimally visible, if at all, from the interstate. We believe that the new proposed use will increase interest and traffic in the area, which would actually increase the value of adjacent properties. The Property was previously vacant land and new development of complementary uses, as is the case here, typically benefits all parties.”

The planning staff has determined that the requested variance will have a substantially adverse effect on the adjacent area. Surrounding developments have strived to meet the intent of the ordinance by using

multiple materials, as well as color and texture changes to meet the requirements of the UDO and bring value to development along this corridor. Adjacent properties will be diminished by allowing the requested variance as well as the fact that it sets a poor precedent for future development along one of Shelbyville's busiest commercial corridors.

Finding #2 has not 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: "If the requested variance is not granted, Gillman will be installing cost-prohibitive brick in a location that will likely not be seen by cars passing along interstate the due to elevation and proposed screening."

The planning staff has determined that the applicant has a practical difficulty that is self-imposed and financial in nature. As mentioned in the applicant's response they feel the use of brick is "cost prohibitive" on a side of the building that is generally not used or seen by the public when the ordinance specifically states "shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain." In addition, Section 5.08 (A)(3) of the Architectural Standards states that "Any other facade (i.e. not the front facade) that faces an **interstate**, highway, or arterial street shall be finished to a standard similar to the architectural quality of the front facade, including building materials, architectural details, windows, or faux windows." The City of Shelbyville has taken a stance that aesthetics bring value to the community and providing relief from these architectural standards make them irrelevant.

Finding #3 has not been satisfied by the applicant

STAFF RECOMMENDATION: DENIAL

DEVELOPMENT STANDARDS VARIANCE: BZA 2022-19: Gillman’s Lumber Center, DSV

FINDINGS OF FACT BY THE SHELBYVILLE BOARD OF ZONING APPEALS

Staff Prepared

Motion:

(I) would like to make a motion to not approve the requested development standard variance from UDO 5.08(A)(1) to eliminate a façade element on the primary structure, sales store at Gillman’s Lumber Center 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:

- 7.
- 8.
- 9.

Shelbyville Board of Zoning Appeals

By: _____

Chairperson

Attest: _____

Secretary

4. In the BH – Business Highway District the UDO does not allow an uninterrupted length of any faced greater than one hundred (100) feet. Facades that exceed one hundred (100) feet in length shall provide projections or recesses having a depth of at least three (3) percent of the length of the façade. This standard is in place to avoid large uninterrupted facades of the same material and provide architectural detail. The Gillman’s Lumber Center primary structure is two hundred twenty-four (224) feet in length on the east and west facades. This requires the façades to have a projection or recess. On the east facade this is being accomplished with a customer entrance and an overhead garage door delivery entrance. On the west façade this is being accomplished by two (2) projections six (6) feet in depth and thirty (30) feet in length evenly space along the façade. Gillman’s Lumber Center is requesting to eliminate these projections and have a solid metal façade for two hundred and twenty-four (224) feet on the west (rear) façade of the building. The west side is the side that faces Interstate 74.

D. Variance From UDO 5.08(A)(4) Business Architectural Standards, Long Facades

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: “The requested variance will allow for a straight wall to be utilized on the entire facade that faces 1-7 4, as opposed to the other three sides which will include bump-outs and additional roof details. All sides of the Retail Store that face other businesses will meet all required development standards, and the straight wall that faces the interstate will match many other retail buildings in the area. The retail shopping center immediately adjacent to the Retail Store has a straight facade that faces the interstate.”

The planning staff has determined that the requested development standards variance would be injurious to the public morals, and general welfare of the community. The requested variance is not in keeping with the intent of the UDO or the existing character of the surrounding developments. Section 5.08 (A)(4) Architectural Standards requires longer facades to be broken up with projections or recesses. If the Board grants the variance without some type of mitigation, the intent of the UDO is being neglected and the future welfare of the community could be harmed.

Finding #1 has not been fully 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: “The surrounding properties are all commercial in nature, and the variance requested will not affect the use or value of these properties. The request will allow for a straight wall, without offsets, on the facade of the Retail Store facing the interstate, which should be completely screened from all adjacent properties, and be minimally noticeable, if at all, from the interstate. We believe that the new proposed use will increase interest and traffic in the area, which would actually increase the value of adjacent properties. The Property was previously vacant land and new development of complementary uses, as is the case here, typically benefits all parties.”

The planning staff has determined that the requested variance will have a substantial adverse effect on the adjacent area. The west elevation, rear facade of the building is highly visible from Interstate 74; the elevation of the interstate in this area is at 790 feet and the bottom of the rear of the façade is at 786 feet. There is still fourteen (14) feet of the façade at or above the grade of the road. Granting relief from this requirement sets a poor precedent for future development in and around the Interstate 74 interchange.

Finding #2 has not been fully 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: “If the requested variance is not granted, Gillman will have significant additional costs to build and maintain the facade with offsets. Again, the facade will likely not be seen by cars passing along the interstate due to elevation and proposed screening.”

The planning staff has determined that the applicant has a practical difficulty that is self-imposed and financial in nature. As mentioned in the applicant’s response they feel there is “significant additional cost” on a side of the building that is generally not used or seen by the public when the ordinance specifically states “shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.” The intent of the UDO is to avoid building long facades that are similar to industrial looking buildings in the business districts.

Finding #3 has not been fully satisfied by the applicant

STAFF RECOMMENDATION: NO RECOMMENDATION

DEVELOPMENT STANDARDS VARIANCE: BZA 2022-19: Gillman’s Lumber Center, DSV

FINDINGS OF FACT BY THE SHELBYVILLE BOARD OF ZONING APPEALS

Staff Prepared

Motion:

(I) would like to make a motion to _____ the requested development standard variance from UDO 5.08(A)(4) to eliminate the projections on the west façade of the primary structure, sales store at Gillman’s Lumber Center 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:

10.

11.

12.

Shelbyville Board of Zoning Appeals

By: _____

Chairperson

Attest: _____

Secretary

5. In the BH – Business Highway District the UDO requires roof features to add interest to the area and complement the character of adjoining neighborhoods. In addition, roof design requires roofs to have no less than two (2) of the following:
 - a. Parapets concealing flat roofs and rooftop equipment such as HVAC units from public view. The average height of such parapets shall not exceed fifteen percent (15%) of the height of the supporting wall. Such parapets shall feature three-dimensional cornice treatment.
 - b. Sloping roofs that do not exceed the average height of the supporting walls with an average slope greater than or equal to one (1) foot of vertical rise for every three (3) feet of horizontal run and less than or equal to one (1) foot of vertical rise for every one (1) foot of horizontal run.
 - c. Three (3) or more roof slope planes.

In Plans approved by the Plan Commission on February 28, 2022, Gillman’s Lumber Center is meeting this requirement by providing the parapet around the entire primary structure and providing three (3) or more roof slope planes. Gillman’s Lumber Center is requesting to eliminate the parapet on the rear, west façade and only provide one of roof design feature.

E. Variance From UDO 5.08 (B)(2) Business Architectural Standards, Roof

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: “The requested variance will allow for a removal of the roof parapet on the facade that faces 1-7 4, as opposed to the other three sides which will include parapets. There are no rooftop HVAC units on the Retail Building, which is typically the reason for the additional parapet screening. Other businesses in the area include roofs and rooftop units that are clearly visible from the interstate and do not include parapets, including the retail shopping center immediately adjacent to the Retail Store.”

The planning staff has determined that the requested development standards variance will be injurious to the public morals, and general welfare of the community. The intent of the UDO is to not only screen rooftop equipment but to screen flat roofs with a decorative parapet feature. The west, rear façade is highly visible from the interstate and providing relief from this requirement alone or in conjunction with any of the other requested variances will diminish the quality of this development and future developments.

Finding #1 has not been fully 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: “The surrounding properties are all commercial in nature, and the variance requested will not affect the use or value of these properties. The request will allow for the removal of the roof parapet on the facade of the Retail Store facing the interstate, which should be completely screened from all adjacent properties, and be minimally visible, if at all, from the interstate. It should also be noted that there will be no HVAC units on the roof, so screening those will not be necessary. We believe that the new proposed use will increase interest and traffic in the

area, which would actually increase the value of adjacent properties. The Property was previously vacant land and new development of complementary uses, as is the case here, typically benefits all parties.”

The planning staff has determined that the requested variance may have a substantial adverse effect on the adjacent area. Adjacent properties were developed between 10-15 years ago and developed under a different UDO. The current UDO was adopted in 2012 with the intent it would be the guiding blueprint for future development. This includes architectural standards and roof design. Any relief from the prescribed standards lessens the quality of the current development while also eroding away at the enforcement of this standard in future development.

Finding #2 has not been fully 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: “If the requested variance is not granted, Gillman will have significant additional costs to include the parapet. Again, the facade will likely not be seen by cars passing along the interstate due to elevation and proposed screening.”

The planning staff has determined that the applicant has a practical difficulty that is self-imposed and financial in nature. As mentioned in the applicant’s response they feel there is “significant additional cost” on a side of the building that is generally not used or seen by the public when the ordinance specifically states “shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.” The rear façade is highly visible from Interstate 74 and may be the first side of the building customers see. The intent of the UDO is to add character and architectural detail to roof lines.

Finding #3 has not been fully satisfied by the applicant

STAFF RECOMMENDATION: NO RECOMMENDATION

DEVELOPMENT STANDARDS VARIANCE: BZA 2022-19: Gillman’s Lumber Center, DSV

FINDINGS OF FACT BY THE SHELBYVILLE BOARD OF ZONING APPEALS

Staff Prepared

Motion:

(I) would like to make a motion to _____ the requested development standard variance from UDO 5.08(B)(2) to eliminate the parapet from the primary structure, sales store at Gillman’s Lumber Center 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:

13.

14.

15.

Shelbyville Board of Zoning Appeals

By: _____

Chairperson

Attest: _____

Secretary

1. The BH – Business Highway District has meticulously crafted architectural standards prescribed in the UDO to ensure a high quality and non-monotonous design of buildings. UDO 5.08 Architectural Standards requires exterior materials to be a combination of brick; wood; stone; tinted and textured concrete masonry units; architectural precast concrete, architectural metal; and other products that replicate the appearance and durability of these materials. The use of smooth faced concrete block, un-textured smooth faced tilt-up concrete panels, and standing seam steel panels are prohibited. Gillman’s Lumber Center is requesting to use standing seam metal panels with exposed fasteners on the rear, west façade of the building. This façade faces Interstate 74.

F. Variance From UDO 5.08(C)(1) Business and Architectural Standards, Building Materials

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: “The requested variance will allow for exposed-fastener metal siding to be used on the entire facade that faces 1-7 4, as opposed to the other three sides which utilize a concealed-fastener metal. All sides of the Retail Store that face other businesses will meet all required development standards, and the exposed fasteners will likely be indistinguishable from concealed fasteners as cars pass the backside of the building on the interstate.”

The planning staff has determined that the requested development standards variance would be injurious to the public morals, and general welfare of the community. Section 5.08 (C)(1) specifically prohibits the use of standing seam metal in the BH – Business Highway District. Allowing the use of this building material would not be in keeping with the intent of the UDO especially on a façade of the primary structure.

Finding #1 has not been fully 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: “The surrounding properties are all commercial in nature, and the variance requested will not affect the use or value of these properties. The request will allow for the use of exposed-fastener metal siding on the facade of the Retail Store facing the interstate, which should be completely screened from all adjacent properties, and be minimally visible, if at all, from the interstate. We believe that the new proposed use will increase interest and traffic in the area, which would actually increase the value of adjacent properties. The Property was previously vacant land and new development of complementary uses, as is the case here, typically benefits all parties.”

The planning staff has determined that the requested variance will have a substantial adverse effect on the adjacent area. The UDO prescribes this standard to ensure all current and future development be “aesthetically pleasing and compatible with the materials and colors of adjoining neighborhoods”. Surrounding developments have strived to meet the intent of the ordinance by using high quality material that adds value to the business corridor. Allowing standing seam metal, even on one facade, will set a precedent along one of the City’s busiest retail corridors.

Finding #2 has not been fully 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: "If the requested variance is not granted, Gillman will be installing expensive metal siding in a location that will likely not be seen by cars passing along the interstate due to elevation and proposed screening."

The planning staff has determined that the applicant has a practical difficulty that is self-imposed and financial in nature. A set of civil and architectural plans for the main store were approved by the Plan Commission on February 28, 2022. These plans included using architectural metal panels without exposed fasteners. Gillman's Lumber Center is proposing to change the already approved material with a less expensive material. The request is purely financial in nature.

Finding #3 has not been fully satisfied by the applicant

STAFF RECOMMENDATION: DENIAL

DEVELOPMENT STANDARDS VARIANCE: BZA 2022-19: Gillman’s Lumber Center, DSV

FINDINGS OF FACT BY THE SHELBYVILLE BOARD OF ZONING APPEALS

Staff Prepared

Motion:

(I) would like to make a motion to _____ the requested development standard variance from UDO 5.08C)(1) to allow for standing seam metal on the primary structure, sale store at Gillman’s Lumber Center 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:

16.

17.

18.

Shelbyville Board of Zoning Appeals

By: _____

Chairperson

Attest: _____

Secretary



DEVELOPMENT STANDARDS VARIANCE APPLICATION

Shelbyville Planning & Building Department
44 West Washington Street
Shelbyville, IN 46176
P: 317.392.5102

For Office Use Only:

Case #: BZA 2022 - 19
Hearing Date: 11/09/22
Fees Paid: \$ 1000
Final Decision:
Approved _____ Denied _____

1.

Applicant

Name: McNeelyLaw LLP
Address: 2177 Intelliplex Drive, Ste. 251
Shelbyville, IN 46176
Phone Number: 317-825-5183
Fax Number: 317-825-5109
Email: jbrattain@mcneelylaw.com

Property Owners Information (if different than Applicant)

Name: Gillman Commercial Real Estate LLC
Address: 1162 Tekulve Rd, Batesville, IN 47006
Phone Number: 812-934-0678
Fax Number: _____
Email: charlie@gillmanhomecenter.com

2.

Applicant's Attorney/Representative

Name: Jacob S. Brattain
Address: 2177 Intelliplex Drive, Ste. 251
Shelbyville, IN 46176
Phone Number: 317-825-5183
Fax Number: 317-825-5109
Email: jbrattain@mcneelylaw.com

Project Engineer

Name: _____
Address: _____
Phone Number: _____
Fax Number: _____
Email: _____

3. Project Information:

General Location of Property (and address is applicable): 5.26 acres of land between I-74 and Lee Boulevard, consisting of Parcel Nos: 73-07-34-300-019.000-002 & 73-07-33-400-017.000-002

Current Zoning Classification: BH Existing Use: Vacant Lot
Number of Requested Variances: 6 Proposed Use: Retail - Gillman Home Center

Section(s) of the Ordinance Requesting Variance(s) from; including Article, Section, Subsection, and Page Number: _____

As to the Lumber Shed: Article 5, Section 5.19(A), Page 5-24; Article 5, Section 5.08(C)(1), Page 5-11
Main Building: Article 5, Section 5.08(A)(1) & Section 5.08(A)(3), Page 5-10; Article 5, Section 5.08(C)(1), Page 5-11;

4. Attachments Article 5, Section 5.08(A)(4), Page 5-10; Article 5, Section 5.08(B)(2)(a), Page 5-10

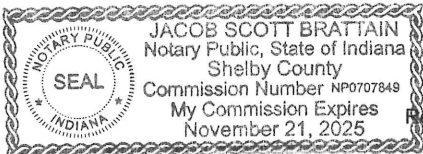
- Affidavit and Consent of Property Owner (if applicable)
- Proof of Ownership (copy of deed, recent property card)
- Letter of Intent
- Supporting Documents and Exhibits (Optional)
- Vicinity Map
- Findings of Fact
- Application Fee

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

Applicant: Charles Gillman Date: 10/24/22

State of IN
County of SHELBY SS:

Subscribed and sworn to before me this 24th day of October, 22.



Jacob S. Brattain
Notary Public Printed

Residing in Shelby County. My Commission Expires: 11/21/2025

**AFFIDAVIT & CONSENT OF PROPERTY OWNER
APPLICATION TO THE SHELBYVILLE BOARD OF ZONING APPEALS**

State of Indiana)
County of Shelby) SS:

I, Gillman Commercial Real Estate LLC, AFTER BEING DULY SWORN, DEPOSE AND SAY
(Name of property owner)

THE FOLLOWING:

1. That I am the owner of real estate located at Parcel Nos: 73-07-34-300-019.000-002 & 73-07-33-400-017.000-002;
(Address of affected property)
2. That I have read and examined the Application made to the Shelbyville Board of Zoning Appeals by: McNeelyLaw LLP, c/o Jacob S. Brattain
(Name of applicant)
3. That I have no objections to and consent to the request(s) described in the Application made to the Shelbyville Board of Zoning Appeals.

Charles Gillman, member of Gillman Commercial Real Estate LLC

Owner's Name (Please print)

Charles Gillman

Owner's Signature

State of Indiana)
County of Shelby) SS:

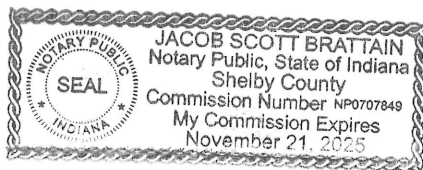
Subscribed and sworn to before me this 24th day of October, 2022

[Signature]
Notary Public

Jacob S. Brattain
Printed

Residing in Shelby County.

My Commission Expires: 11/21/2025



October 24, 2022

Shelbyville Planning & Building Department
Attn: Board of Zoning Appeals
44 W. Washington Street
Shelbyville, IN 46176

Re: Development Standard Variance Request for Gillman Home Center

Dear Board Members:

This letter serves as a letter of intent for the requested development standards variances for approximately 5.26 acres of land between I-74 and Lee Boulevard, owned by Gillman Commercial Real Estate LLC consisting of Parcel Numbers: 73-07-34-300-019.000-002 & 73-07-33-400-017.000-002 (the “Property”). The Property will be the future site of Gillman Home Center, and McNeelyLaw LLP represents Gillman Commercial Real Estate LLC and Gillman Home Center’s interests in the variances requested to develop the Property.

Gillman Home Centers is a full-service hardware and lumber dealer with multiple locations across Indiana and Ohio. A family business, brothers Carl and Dick Gillman founded Gillman Brother’s Lumber in 1962. The family’s legacy is now carried on by Charlie Gillman, who owns and operates the current stores under the same mindset instilled by Carl and Dick many years ago – provide each community with friendly service and everything necessary to build and maintain their homes.

As shown in the site plan, the Property will contain two separate structures – an approximately 25,000sqft building that will be situated on the south section of the Property and house the retail operations of the Center (the “Store”). A lumber shed and supplies building will allow for approximately 12,000sqft of dry storage on the northern portion of the Property (the “Lumber Shed”). The Lumber Shed and all outdoor storage areas will be screened with a privacy fence.

Gillman is requesting the following development variances for the Lumber Shed:

- Article 5, Section 5.19(A), Page 5-24 – Allow 12’ Privacy Fence
- Article 5, Section 5.08(C)(1), Page 5-11 – Allow Exposed-Fastener Metal Siding

Gillman is requesting the following development variances related to the interstate-facing façade of the Store:

- Article 5, Section 5.08(A)(1) & Section 5.08(A)(3), Page 5-10 – Allow for No Brick Skirting Exposed Fasteners – 5.08(C)(1)
- Article 5, Section 5.08(C)(1), Page 5-11 – Allow Exposed-Fastener Metal Siding
- Article 5, Section 5.08(A)(4), Page 5-10 – Allow for a Straight Façade with no Offsets
- Article 5, Section 5.08(B)(2)(a), Page 5-10 – Allow for No Parapet on the Roof

As further described in the Finding of Facts for each variance request, we believe that the requested variances will not be harmful to the public health, safety, and general welfare of the City of



October 24, 2022

Page 2

Shelbyville, will not affect the use and value of adjacent properties, and will allow for efficient development of the Property.

As stated, the Property is situated between I-74 and Lee Boulevard – boarded on four sides by: I-74 to the North East; a ~14,500sqft retail center housing GameStop, Maurices, Sally Beauty, Great Clips, and Shelby Smoke Shop to the South East; Walmart and its parking lot to the South West; and vacant land to the North West. Other close tenants include Starbucks, Denny’s, Quality Inn & Suites, and Applebee’s Grill and Bar. Many of the adjacent properties include elements that Gillman will be able to incorporate if the requested variances are granted. Gillman is excited to bring its retail concept to Shelbyville, and is looking forward to becoming a part of the community.

At this time, Gillman is seeking relief from the City of Shelbyville Development Standards. Granting the Development Variances requested will not be harmful to the City of Shelbyville, will have no bearing on the use or value of adjacent properties, and will allow for the Property to be developed in the most reasonable, efficient way possible.

Very truly yours,

McNeelyLaw LLP

Jacob S. Brattain

Jacob S. Brattain



DEVELOPMENT STANDARDS VARIANCE FINDINGS OF FACT

Petitioner's Name: **Gillman Commercial Real Estate LLC**

Location: **Parcels: 73-07-34-300-019.000-002 & 73-07-33-400-017.000-002 – Lumber Shed**

Variance for: **Article 5, Section 5.19(A), Page 5-24 – Allow 12' Privacy Fence**

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.

The requested variance will ensure that all of the operations of the proposed use will be screened from public view, including when driving by on the Lee Boulevard, driving on I-74, and visiting any adjacent businesses.

2. **Adjacent Property:** Explain why the development standard variance request will not affect the use and the value of adjacent properties.

The surrounding properties are all commercial in nature, and the variance requested will not affect the use or value of these properties. The request will allow for a higher fence, increasing the screening of the Property, ensuring that no storage or operations associated with the proposed use will be seen from any neighboring businesses. We believe that the new, proposed use will increase interest and traffic in the area, which would actually increase the value of adjacent properties. The Property was previously vacant land and new development of complementary uses, as is the case here, typically benefits all parties.

3. **Practical Difficulty:** Please state the difficulties that will be faced if the project is not granted the requested development standard variance.

If the requested variance is not granted, Gillman will not be able to adequately screen outdoor storage and activities from the public view due to the increase in height of the interstate along the back side of the Lumber Shed.



DEVELOPMENT STANDARDS VARIANCE FINDINGS OF FACT

Petitioner's Name: **Gillman Commercial Real Estate LLC**

Location: **Parcels: 73-07-34-300-019.000-002 & 73-07-33-400-017.000-002 – Lumber Shed**
Variance for: **Article 5, Section 5.08(C)(1), Page 5-11 – Allow Exposed-Fastener Metal Siding**

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.

The requested variance will allow for exposed-fastener metal siding that will should not be seen by the public from any view outside of the proposed privacy fencing. Almost all lumber yards, including Menards stores built in Marion and Johnson counties, 84-Lumber in Johnson County, and Gillman Home Centers Built throughout the state and Ohio, utilize exposed-fastener metal siding, regardless if the area will be screened, and there are no apparent issues with the materials used at these sites.

2. **Adjacent Property:** Explain why the development standard variance request will not affect the use and the value of adjacent properties.

The surrounding properties are all commercial in nature, and the variance requested will not affect the use or value of these properties. The request will allow for the use of exposed-fastener metal siding on the Lumber Shed, which should be completely screened from all adjacent properties, and the interstate. We believe that the new, proposed use will increase interest and traffic in the area, which would actually increase the value of adjacent properties. The Property was previously vacant land and new development of complementary uses, as is the case here, typically benefits all parties.

3. **Practical Difficulty:** Please state the difficulties that will be faced if the project is not granted the requested development standard variance.

If the requested variance is not granted, Gillman be forced to use siding that is not readily available and is difficult to replace if damaged. Unfortunately, with deliveries, pickups, unloading, and unpackaging, the siding on the Lumber Shed is regularly damages at other locations Gillman operates. By allowing a standard siding to be used, it will allow for quicker and easier repairs of any potential damages.



DEVELOPMENT STANDARDS VARIANCE FINDINGS OF FACT

Petitioner's Name: **Gillman Commercial Real Estate LLC**

Location: **Parcels: 73-07-34-300-019.000-002 & 73-07-33-400-017.000-002 – Retail Store, Interstate-Facing Façade**

Variance for: **Article 5, Section 5.08(A)(1) & Section 5.08(A)(3), Page 5-10 – Allow for No Brick Skirting**

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.

The requested variance will allow for metal siding to be used on the entire façade that faces I-74, as opposed to the other three sides which will be skirted in brick. All sides of the Retail Store that face other businesses will meet all required development standards, and the metal siding should be minimally visible, if at all, as cars pass the back-side of the building on the interstate.

2. **Adjacent Property:** Explain why the development standard variance request will not affect the use and the value of adjacent properties.

The surrounding properties are all commercial in nature, and the variance requested will not affect the use or value of these properties. The request will allow for the use of all metal siding (no brick skirting) on the façade of the Retail Store facing the interstate, which should be completely screened from all adjacent properties, and be minimally visible, if at all, from the interstate. We believe that the new, proposed use will increase interest and traffic in the area, which would actually increase the value of adjacent properties. The Property was previously vacant land and new development of complementary uses, as is the case here, typically benefits all parties.

3. **Practical Difficulty:** Please state the difficulties that will be faced if the project is not granted the requested development standard variance.

If the requested variance is not granted, Gillman will be installing cost-prohibitive brick in a location that will likely not be seen by cars passing along interstate the due to elevation and proposed screening.



DEVELOPMENT STANDARDS VARIANCE FINDINGS OF FACT

Petitioner's Name: **Gillman Commercial Real Estate LLC**

Location: **Parcels: 73-07-34-300-019.000-002 & 73-07-33-400-017.000-002 – Retail Store, Interstate-Facing Façade**

Variance for: **Article 5, Section 5.08(C)(1), Page 5-11 – Allow Exposed-Fastener Metal Siding**

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.

The requested variance will allow for exposed-fastener metal siding to be used on the entire façade that faces I-74, as opposed to the other three sides which utilize a concealed-fastener metal. All sides of the Retail Store that face other businesses will meet all required development standards, and the exposed fasteners will likely be indistinguishable from concealed fasteners as cars pass the back-side of the building on the interstate.

2. **Adjacent Property:** Explain why the development standard variance request will not affect the use and the value of adjacent properties.

The surrounding properties are all commercial in nature, and the variance requested will not affect the use or value of these properties. The request will allow for the use of exposed-fastener metal siding on the façade of the Retail Store facing the interstate, which should be completely screened from all adjacent properties, and be minimally visible, if at all, from the interstate. We believe that the new, proposed use will increase interest and traffic in the area, which would actually increase the value of adjacent properties. The Property was previously vacant land and new development of complementary uses, as is the case here, typically benefits all parties.

3. **Practical Difficulty:** Please state the difficulties that will be faced if the project is not granted the requested development standard variance.

If the requested variance is not granted, Gillman will be installing expensive metal siding in a location that will likely not be seen by cars passing along the interstate due to elevation and proposed screening.



DEVELOPMENT STANDARDS VARIANCE FINDINGS OF FACT

Petitioner's Name: **Gillman Commercial Real Estate LLC**

Location: **Parcels: 73-07-34-300-019.000-002 & 73-07-33-400-017.000-002 – Retail Store, Interstate-Facing Façade**

Variance for: **Article 5, Section 5.08(A)(4), Page 5-10 – Allow for a Straight Façade with no Offsets**

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.

The requested variance will allow for a straight wall to be utilized on the entire façade that faces I-74, as opposed to the other three sides which will include bump-outs and additional roof details. All sides of the Retail Store that face other businesses will meet all required development standards, and the straight wall that faces the interstate will match many other retail buildings in the area. The retail shopping center immediately adjacent to the Retail Store has a straight façade that faces the interstate.

2. **Adjacent Property:** Explain why the development standard variance request will not affect the use and the value of adjacent properties.

The surrounding properties are all commercial in nature, and the variance requested will not affect the use or value of these properties. The request will allow for a straight wall, without offsets, on the façade of the Retail Store facing the interstate, which should be completely screened from all adjacent properties, and be minimally noticeable, if at all, from the interstate. We believe that the new, proposed use will increase interest and traffic in the area, which would actually increase the value of adjacent properties. The Property was previously vacant land and new development of complementary uses, as is the case here, typically benefits all parties.

3. **Practical Difficulty:** Please state the difficulties that will be faced if the project is not granted the requested development standard variance.

If the requested variance is not granted, Gillman will have significant additional costs to build and maintain the façade with offsets. Again, the façade will likely not be seen by cars passing along the interstate due to elevation and proposed screening.



DEVELOPMENT STANDARDS VARIANCE FINDINGS OF FACT

Petitioner's Name: **Gillman Commercial Real Estate LLC**

Location: **Parcels: 73-07-34-300-019.000-002 & 73-07-33-400-017.000-002 – Retail Store, Interstate-Facing Façade**

Variance for: **Article 5, Section 5.08(B)(2)(a), Page 5-10 – Allow for No Parapet on the Roof**

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.

The requested variance will allow for a removal of the roof parapet on the façade that faces I-74, as opposed to the other three sides which will include parapets. There are no rooftop HVAC units on the Retail Building, which is typically the reason for the additional parapet screening. Other businesses in the area include roofs and rooftop units that are clearly visible from the interstate and do not include parapets, including the retail shopping center immediately adjacent to the Retail Store.

2. **Adjacent Property:** Explain why the development standard variance request will not affect the use and the value of adjacent properties.

The surrounding properties are all commercial in nature, and the variance requested will not affect the use or value of these properties. The request will allow for the removal of the roof parapet on the façade of the Retail Store facing the interstate, which should be completely screened from all adjacent properties, and be minimally visible, if at all, from the interstate. It should also be noted that there will be no HVAC units on the roof, so screening those will not be necessary. We believe that the new, proposed use will increase interest and traffic in the area, which would actually increase the value of adjacent properties. The Property was previously vacant land and new development of complementary uses, as is the case here, typically benefits all parties.

3. **Practical Difficulty:** Please state the difficulties that will be faced if the project is not granted the requested development standard variance.

If the requested variance is not granted, Gillman will have significant additional costs to include the parapet. Again, the façade will likely not be seen by cars passing along the interstate due to elevation and proposed screening.

ENTER FOR TAXATION

2022000729 CORP WD \$25.00
01/31/2022 02:54:22P 2 PGS
Taunya J Williams
SHELBY County Recorder IN
Recorded as Presented

JAN 31 2022

Amy H. Blackman

SHELBY COUNTY AUDITOR

CORPORATE
WARRANTY DEED

File No.: CTIN2108186-KJB
CT Indianapolis Commercial

THIS INDENTURE WITNESSETH, that BANTERRA BANK, an Illinois state-chartered bank (Grantor) CONVEY(S) AND WARRANT(S) to Gillman Commercial Real Estate LLC, an Indiana limited liability company (Grantee) for the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following described real estate in Shelby County in the State of Indiana, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Property: Lee Blvd, Shelbyville, IN 46176

Subject to all current real estate taxes and assessments and all subsequent taxes and assessments.

Subject to all easements, covenants, conditions, and restrictions of record.

IN WITNESS WHEREOF, the undersigned person(s) executing this deed on behalf of Grantor(s) represent and certify that they are duly elected officers of Grantor(s) and have been fully empowered, by proper resolution of the Board of Directors of Grantor(s), to execute and deliver this deed; that Grantor(s) has full corporate capacity to convey the real estate described herein; and that all necessary corporate action for the making of such conveyance has been taken and done.

IN WITNESS WHEREOF, Grantor has executed this deed this 25th day of JANUARY, 2022.

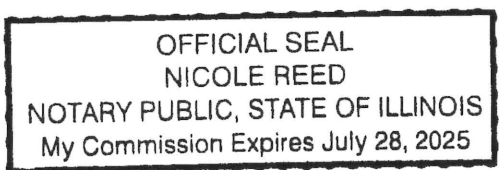
BANTERRA BANK, an Illinois state-chartered bank
BY: *Steven R. Burroughs*
Steven R. Burroughs, Executive Vice President
and Chief Risk Officer

State of Illinois
County of Williamson

Before me, a Notary Public in and for said County and State, personally appeared Steven R. Burroughs, as Executive Vice President and Chief Risk Officer of Banterra Bank, an Illinois state-chartered bank, who acknowledged the execution of the foregoing instrument, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 25th day of JANUARY, 2022

Signature: *Nicole Reed*
Printed: Nicole Reed
Resident of: Williamson County
State of: Illinois
My Commission expires: 7/28/2025



Prepared By: J. David Clossin, for the benefit of Chicago Title Company, LLC
Grantee's Address and Tax Billing Address: 1162 Tekulve Road, Batesville, IN 47006
I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law: J. David Clossin.

SALES DISCLOSURE
APPROVED
SHELBY CO. ASSESSOR

LEGAL DESCRIPTION

Exhibit "A"

For APN/Parcel ID(s): 73-07-34-300-019.000-002 and 73-07-33-400-017.000-002

Part of the Southeast Quarter of Section 33, and Part of the Southwest Quarter of Section 34, Township 13 North, Range 7 East, Addison Township, Shelby County, Indiana, described as follows:

Commencing at the southeast corner of said Southeast Quarter; thence North 89 degrees 04 minutes 14 seconds West, 283.73 feet to the northwest corner of the Northwest Quarter of Section 3, Township 12 North, Range 7 East; thence continuing North 89 degrees 04 minutes 14 seconds West, along the south line of said Southeast Quarter, 550.12 feet; thence North 00 degrees 00 minutes 00 seconds West, 768.15 feet; thence North 44 degrees 26 minutes 02 seconds East, 551.64 feet to the Point of Beginning; thence continuing North 44 degrees 26 minutes 02 seconds East 320.97 feet to the southwesterly right of way of Interstate 74, being a point on a curve having a radius of 7784.44 feet, the radius point of which bears North 42 degrees 59 minutes 46 seconds East, (the following 7 courses being along said southwesterly right of way): (1) thence Southerly along said curve, an arc length of 280.46 feet; (2) thence North 00 degrees 06 minutes 12 seconds East, 40.18 feet to a point on a curve having a radius of 7731.91 feet, the radius point of which bears North 41 degrees 02 minutes 51 seconds East; (3) thence Southerly along said curve an arc length of 40.66 feet to a point which bears South 49 degrees 06 minutes 40 seconds East from said radius point; (4) thence South 45 degrees 58 minutes 06 seconds East, 149.36 feet to a point on a curve having a radius of 7765.44 feet, the radius point of which bears North 39 degrees 38 minutes 17 seconds East; (5) thence Southeasterly along said curve an arc length of 304.95 feet to a point which bears South 37 degrees 23 minutes 17 seconds West; (6) thence South 39 degrees 11 minutes 21 seconds East, 104.83 feet to a point on a curve having a radius of 7790.44 feet, the radius point of which bears North 36 degrees 38 minutes 21 seconds East; (7) thence Southeasterly along said curve an arc length of 169.44 feet to a point which bears South 70 degrees 23 minutes 35 seconds West from the radius point; thence South 36 degrees 09 minutes 38 seconds West, 199.21 feet to the existing right of way line of Lee Road, said point being a point on a curve having a radius of 45.20 feet, the radius point of which bears North 35 degrees 50 minutes 36 seconds East; thence Northerly along said curve, an arc length of 27.62 feet to a point of reversed curvature having a radius of 72.00 feet, the radius point of which bears South 70 degrees 37 minutes 18 seconds West; thence Northwesterly along said curve an arc length of 40.06 feet to a point which bears North 38 degrees 44 minutes 32 seconds East from said radius point; thence North 51 degrees 15 minutes 28 seconds West, 450.26 feet to a point on a curve having a radius of 132.00 feet, the radius point of which bears South 38 degrees 44 minutes 32 seconds West; thence Northwesterly along said curve, an arc length of 30.64 feet to a point which bears North 25 degrees 26 minutes 37 seconds East from said radius point; thence North 64 degrees 33 minutes 23 seconds West, 531.00 feet to the Point of Beginning, containing 5.26 acres, more or less.

EXCEPT Lot 1A in Lee's Riverside Business Park Phase I, Major Subdivision Final Plat, as per plat thereof, recorded December 21, 2004 as Instrument No. 2004010661 in the Office of the Recorder of Shelby County, Indiana.