

CITY OF SHELBYVILLE

Adam M. Rude
Director



Allan Henderson
Deputy Director

BOARD OF ZONING APPEALS

MEETING DATE: 6/13/2023

Case #:	BZA 2023-12: 931 Clark Street; DSV			
Petitioner's Name:	Nathan Smith			
Owner's Name:	Nathan Smith			
Petitioner's Representative:	Nathan Smith			
Address of Property:	931 Clark Street, Shelbyville, IN			
Subject Property Zoning Classification:	R1 - Single-family Residential			
Comprehensive Future Land use:	Commercial			
	North	East	South	West
Surrounding Properties' Zoning Classifications:	IL – Light Industrial	BG – Business General	R1 – Single-family Residential (Shelby County)	IL – Light Industrial
Surrounding Properties' Comprehensive Future Land Use	Commercial	Commercial	Commercial	Commercial
History:	The petitioner owns the property at 931 Clark Road as well as 971 Clark Road. Approximately 2 years ago the petitioner demolished the structure that was located on 931 Clark Road with the intent of building a pole barn.			
Vicinity Map:				
Action Requested:	A request for two Development Standards Variances, one from UDO 5.23 (A)(2) to increase the height of an accessory structure and one from UDO 5.18 (A)(1) to increase the height of a fence in the front yard setback.			

1. The petitioner would like to construct a pole barn to store a school bus. The sidewalls of the pole barn will be (16) sixteen feet pushing the height of the pole barn beyond what is allowed for accessory structures. Accessory structures may be equal to the height of a one-story primary structure or 75% of the height of a multi-story primary structure. The primary structure is approximately 12-16 feet in height.
2. The petitioner is located to the south of a IL – Light Industrial property that currently has an 8-foot privacy fence surrounding the property, including the northern property line shared with the petitioner. The petitioner would like to place his fence in the same location distance from the property line as the fence on the light industrial property. This would place the petitioner’s fence in his front yard. UDO 5.18 Residential Fence, Hedge, and Wall Standards do not allow fences 8 feet in height forward of the front plane of a house.

BZA 2023-01. A Variance From UDO 5.23(A)(2), Height Standards

Finding of Fact #1 – 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.

Applicant provided the following response to Finding of Fact #1: “I am the adjoining residential property owner. The other properties around the property are industrial. Building will be for storing things inside.”

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 height increase on the proposed pole barn is similar in character and massing to other accessory structures in the area since there is a mix of uses. In addition, the pole barn will sit behind a fence and not be completely visible from the road.

Finding #1 has been satisfied by the petitioner.

Finding of Fact #2 – Explain why the development standard variance request will not affect the use and value of adjacent properties.

Applicant provided the following response to Finding of Fact #2: “Adjacent properties have larger industrial buildings.”

The planning staff has determined that the requested variance should not have a substantially adverse effect on the adjacent area. The proposed pole barn is in keeping with the character of the surrounding properties. The existing nature of the area has larger, more substantial structures, which limits any impact from a new structure like the one being proposed.

Finding #2 has been satisfied by the petitioner.

Finding of Fact #3 – Please state the difficulties that will be faced if the project is not granted the requested development standard variance. The practical difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.

Applicant provided the following response to Finding of Fact #3: “I will not be able to park school bus in building without height variance.”

The planning staff has determined that the applicant has a practical difficulty that is neither self-imposed nor financial in nature. The standards that regulate the height of an accessory structure do not allow the petitioner to construct a pole barn that will provide the parking storage for his school bus.

Finding #3 has been satisfied by the petitioner.

STAFF RECOMMENDATION: APPROVAL

DEVELOPMENT STANDARDS VARIANCE: BZA 2023-12: 931 Clark Road; 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 standards variance from UDO 5.23(A)(2) to allow for an increase in the height of accessory structure in accordance with the plans provided to this board, pursuant to 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 / Presiding Officer

Attest: _____

Adam M. Rude, Secretary

BZA 2023-01. A Variance From UDO 5.18(A)(1), Fence, Hedge, and Wall Standards

Finding of Fact #1 – 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.

Applicant provided the following response to Finding of Fact #1: “This will have no negative effect. This will increase safety and be a barrier for traffic.”

The planning staff has determined that the requested variance from the fence standards for the front yard should not be injurious to the public health, safety, morals, or general welfare of the community. The planning staff believes the reduction in setback and increase in height is in keeping with the character of this multiuse area and is in line with other properties in the area.

Finding #1 has been satisfied by the petitioner.

Finding of Fact #2 – Explain why the development standard variance request will not affect the use and value of adjacent properties.

Applicant provided the following response to Finding of Fact #2: “This will be in line with the fence height on the rear and side property. It is shorter and further from road than fence on adjacent property.”

The planning staff has determined that the requested variance from the fence standards should not have a substantial adverse effect on the use and value of the adjacent areas. As previously stated, the light industrial property to the north currently has a fence surrounding the property and the petitioner is building their fence in line with that existing fence.

Finding #2 has been satisfied by the petitioner.

Finding of Fact #3 – Please state the difficulties that will be faced if the project is not granted the requested development standard variance. The practical difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.

Applicant provided the following response to Finding of Fact #3: “Fence will have to be removed along with previously stated safety concerns with traffic.”

The planning staff has determined that the strict application of the terms of the ordinance will result in a practical difficulty that is neither self-imposed nor based on a perceived reduction of, or restriction on economic gain. The petitioner owns the parcel to the south of the subject parcel and is trying to maximize the use of this side yard. Reducing the front yard setback allows the property owner to utilize more of the property for their side yard and the increase in fence height will not be obstructive.

Finding #3 has been satisfied by the petitioner.

STAFF RECOMMENDATION: APPROVAL

DEVELOPMENT STANDARDS VARIANCE: BZA 2023-12: 931 Clark Road; 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 standards variance from UDO 5.18 (A)(1) to allow for a reduced front yard setback and an increase in the height of the fence in accordance with the plans provided to this board, pursuant to 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 / Presiding Officer

Attest: _____

Adam M. Rude, 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 2023-12

Hearing Date: 6/17/23

Fees Paid: \$ 125.00

Final Decision:

Approved

Denied

1.

Applicant

Name: Nathan Smith
Address: 971 / 931 S Clark Rd
Shelbyville, IN 46176
Phone Number: 317-512-9427
Fax Number: _____
Email: nsmith@yourstronghold.com

Property Owners Information (if different than Applicant)

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

2.

Applicant's Attorney/Representative

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

Project Engineer

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

3. Project Information:

General Location of Property (and address is applicable): 931 S Clark - Right back
corner of lot
Current Zoning Classification: _____ Existing Use: _____
Number of Requested Variances: _____ Proposed Use: _____

Section(s) of the Ordinance Requesting Variance(s) from; including Article, Section, Subsection, and Page Number: _____
DSV FROM UDO 5.23(A)(2)
DSV FROM UDO 5.17(A)(2)

4. Attachments

- 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: [Signature] Date: 5/30/23

State of IN
County of Shelby SS:

Subscribed and sworn to before me this 30th day of May, 2023



LISA D. LOVELESS

COUNTY OF RES.: SHELBY

COMM. NO.: NP0723199

MY COMM. EXP.: 10-24-2027

Lisa D. Loveless
Notary Public

Lisa D. Loveless
Printed

Residing in Shelby County.

My Commission Expires: 10-24-27



LETTER OF INTENT
BOARD OF ZONING APPEALS

Please write a brief summary the case you are presenting to the Board of Zoning Appeals. You may submit on this form or on your own letterhead.

To whom it may concern:

I would like to construct a post building roughly 60x40 or slightly smaller with 16ft side walls. This building would be used primarily to store my school bus.

Thanks,



DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT

Petitioner's Name: Nathan Smith
Location: 931 S. Clark Rd Shelbyville
Variance for: Height of Accessory Structure

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.
I am a jointing residential property owner. The other properties around property are industrial. Building will be for storing things inside.

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

3. **Practical Difficulty:** Please state the difficulties that will be faced if the project is not granted the requested development standard variance.
I will not be able to park school bus in building without height variance.

Note: For petitions with multiple requested variances, please submit one completed "Findings of Fact" for each requested variance.



LETTER OF INTENT
BOARD OF ZONING APPEALS

Please write a brief summary the case you are presenting to the Board of Zoning Appeals. You may submit on this form or on your own letterhead.

To whom it may concern:

I am requesting a height variance for the fence on my vacant lot. I own the house next to the property. With the traffic on Progress Parkway, the additional height is a safety benefit for my children.

Thank you for your consideration.

[Handwritten Signature]



DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT

Petitioner's Name: Nathan Smith
Location: 931 S Clark Rd
Variance for: Privacy fence height variance

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.

This will have no negative effect. This will increase safety and be a barrier for traffic.

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

This will be in line with fence height on rear and side of property. Is shorter and further from road than fence on adjacent property.


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

Fence will have to be removed along with previously stated safety concerns with traffic.

Note: For petitions with multiple requested variances, please submit one completed "Findings of Fact" for each requested variance.




Certificate of Mailing — Firm

Name and Address of Sender		TOTAL NO. of Pieces Listed by Sender	TOTAL NO. of Pieces Received at Post Office™	Affix Stamp Here Postmark with Date of Receipt.							
Nathan Smith 9711 S. Clark Rd. Shelbyville, IN 46176		8	8								
USPS® Tracking Number Firm-specific Identifier		Postmaster, per (name of receiving employee) Nathan Sinswelter						Address (Name, Street, City, State, and ZIP Code™)		Postage	
1.	Addison Real Estate LLC 1458 Mariani Ct Tracy, CA 95376										
2.	City of Shelbyville 44 W. Washington St. Shelbyville, IN 46176										
3.	Terry L. Conover 1018 S. Clark Rd Shelbyville, IN 46176										
4.	Galt Indiana Properties LLC 144 E. Rampart St. Shelbyville, IN 46176										
5.	Joseph Gaudin Sr. 1009 S. Clark Rd Shelbyville, IN 46176										
6.	Lumberman's Inc & Michigan Corporation 4433 Safford SW Grand Rapids, MI 49548										


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Certificate of Mailing — Firm

Name and Address of Sender <i>Nathan Smith</i> <i>971 S. Clark Rd.</i> <i>Shelbyville, IN 46176</i>		TOTAL NO. of Pieces Listed by Sender <i>8</i>	TOTAL NO. of Pieces Received at Post Office™ <i>8</i>	Affix Stamp Here Postmark with Date of Receipt. 
USPS® Tracking Number Firm-Specific Identifier		Postmaster, per (name of receiving employee) <i>Nelson Simmselley</i>		

	Address (Name, Street, City, State, and ZIP Code™)	Postage	Fee	Special Handling	Parcel Airlift
1.	Addison Reel Estate LLC 1458 Mariani Ct Tracy CA 95376 CITY of Shelbyville 44 W Washington St. Shelbyville IN 46176 Terry Conover 1018 S Clark Rd Shelbyville IN 46176 Galt Indiana Properties LLC 144 E Rampart St. Shelbyville IN 46176				
3.	Joseph Gaudin Sr 1009 S Clark Rd Shelbyville IN 46176 Lumberman's INC A Michigan Corporation 4433 Stafford St Grand Rapids MI 49414-3548				
4.	Radius Aerospace INC 850 Elston Dr Shelbyville IN 46176 Shelbyville Central Schools 803 St. Joseph St Shelbyville IN 46176				
5.	Radius Aerospace INC 850 Elston DR Shelbyville, IN 46176				
6.	Shelbyville Central Schools 803 St Joseph Street Shelbyville, IN 46176				