



# BOARD OF ZONING APPEALS STAFF REPORT

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**To:** Board of Zoning Appeals Members

**From:** Elizabeth Fields, AICP, Planner  
Keeghan Stitt-White, AICP, Planner

**Meeting Date:** February 9, 2026

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**BZA 26-03**                      **9414 Deardoff Road – Variance Requests Pertaining to Existing and Proposed Accessory Structures on the Property and Driveway Material**

**Property Information:**    Location: 9414 Deardoff Road (Parcel: 0427452006)  
Zoning: R-1A Estate Residential District

**Project Overview:**        The applicant, Justin Doyl Homes c/o Josh Agricola, is requesting the following variances for the property located at 9414 Deardoff Road in the R-1A Estate Residential District:

- 1) A variance to exceed the total number of poultry/domestic fowl permitted on a property in the R-1A Estate Residential District.
- 2) A variance to allow accessory structures in the front yard of the property;
- 3) A variance to allow a six foot privacy fence in the front yard;
- 4) A variance to exceed the maximum height of an accessory storage structure;
- 5) A variance to exceed the maximum number of storage structures permitted per property;
- 6) A variance to allow for a swimming pool in the front yard;
- 7) A variance to not enclose the swimming pool with a fence or barrier no less than 48 inches in height; and
- 8) A variance to allow for a gravel driveway.

The requested variances stem from the existence of several accessory structures on the 48-acre property that were constructed without a permit, as well as the proposed construction of a single-family dwelling, outbuilding, number of poultry/domestic fowl, and inground pool for the property owner.

**Variance Request #1:** **Section 1107.06(a)(5)(C):** Regardless of acreage, in no case shall the total number of poultry/domestic fowl exceed 12 such animals. Land acreage shall be measured exclusive of road or street right-of-way.

*Comments: The applicant has noted that there are approximately 80 birds on the property.*

**Overview:** Outside of the agricultural zoning district, the UDO allows for limited agricultural uses on properties located in the R-1A Estate Residential District. Included in these agricultural uses is the keeping of poultry/domestic fowl which is limited to a maximum of 12 animals regardless of property size. The applicant noted that there are approximately 80 birds on the property which are assumed to be contained in the 6'x20' chicken coop. The applicant also noted that without the absolute cap on the number of allowed animals, the property due to its size would be able to meet the density requirement in Section 1107.06(a)(5)(B) which limits the number of birds to five per acre (48 acres then would allow approximately 240 birds without the cap at 12).

**Comments:** Variance General Standards for Approval:

Standards for Approval: Unless other standards are provided in this UDO for variances from a particular set of design/development standards or regulations, the following Standards for Approval shall apply. Approval of a variance shall only be granted if the Appeals Board finds that all of the following standards are met:

1. Special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures within the same zoning district. (Examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness, or steepness of the lot, etc.).  
**The property is approximately 48 acres, which is significantly larger than other properties located in the R-1A District which has a minimum lot size of 15,000 square feet.**
2. The special conditions or circumstances that exist did not result from the actions of the applicant.  
**The special conditions or circumstances did not result from the actions of the applicant.**

3. There cannot be any beneficial use of the property without the variance.  
**Without the variance, the applicant would be able to have a maximum of 12 poultry/domestic fowl on the property which would diminish the beneficial use of the property.**
4. The variance is not substantial and is the minimum relief necessary to make possible the reasonable use of the land or structures.  
**While the variance request is significant, the size of the property supports the number of birds on the property (approximately 80) and is the minimum relief necessary to allow the owner to keep the existing birds on the property.**
5. The difficulty or reason why the applicant is seeking a variance cannot be resolved through any method other than a variance.  
**A variance is the minimum relief necessary to allow for the number of birds on the property.**
6. The essential character of the neighborhood will not be substantially altered nor will adjoining properties would suffer substantial detriment as a result of the variance.  
**The essential character of the neighborhood will not be substantially impacted.**
7. The variance will not adversely affect the delivery of governmental services such as water, sewer, and trash pickup.  
**Governmental services will not be impacted.**
8. Granting the variance will be in harmony with the general purpose and intent of the zoning requirement the applicant seeks a variance from and will not otherwise be detrimental to the public's health, safety, or welfare.  
**Granting the variance would not be in harmony with the general purpose and intent of the zoning requirement, which specifically limits the permitted agricultural uses for properties in the R-1A Zoning District. However, due to the size of the property, the variance would not be considered detrimental to public health, safety, or welfare.**
9. Granting of the variance requested will not confer upon the applicant any special privilege that is denied by this UDO to other lands, structures, or buildings in the same district.  
**Granting the variance would confer upon the applicant a special privilege that is denied by the UDO to other properties in the R-1A District, but due to the increased size, it would be appropriate.**



**Comments:**

Variance General Standards for Approval:

Standards for Approval: Unless other standards are provided in this UDO for variances from a particular set of design/development standards or regulations, the following Standards for Approval shall apply. Approval of a variances shall only be granted if the Appeals Board finds that all of the following standards are met:

1. Special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures within the same zoning district. (Examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness, or steepness of the lot, etc.).  
**The property is approximately 48 acres, which is significantly larger than other properties located in the R-1A District which has a minimum lot size of 15,000 square feet and contains two expansive front yards along both Deardoff Road and Pennyroyal Road due to the location of the proposed single-family dwelling.**
2. The special conditions or circumstances that exist did not result from the actions of the applicant.  
**While the size of the lot and the irregular shape are not the result of actions from the applicant, the location of what is considered the front yard is due to the proposed placement of the single-family dwelling.**
3. There cannot be any beneficial use of the property without the variance.  
**Without the variance, the applicant's use of the property would be diminished due to the size of the front yard, but accessory structures would be permitted in the rear yard.**
4. The variance is not substantial and is the minimum relief necessary to make possible the reasonable use of the land or structures.  
**The requested variance is significant. The UDO does not permit accessory structures in the front yard, and the proposed variance is to permit three separate structures. However, a variance is the minimum relief necessary to make possible the reasonable use of the structures.**
5. The difficulty or reason why the applicant is seeking a variance cannot be resolved through any method other than a variance.  
**A variance is the minimum relief necessary to allow for the location of the existing accessory structures.**

6. The essential character of the neighborhood will not be substantially altered nor will adjoining properties would suffer substantial detriment as a result of the variance.

**The essential character of the neighborhood will not be substantially impacted.**

7. The variance will not adversely affect the delivery of governmental services such as water, sewer, and trash pickup.

**Governmental services will not be impacted.**

8. Granting the variance will be in harmony with the general purpose and intent of the zoning requirement the applicant seeks a variance from and will not otherwise be detrimental to the public's health, safety, or welfare.

**Granting the variance would not be in harmony with the general purpose and intent of the zoning requirement.**

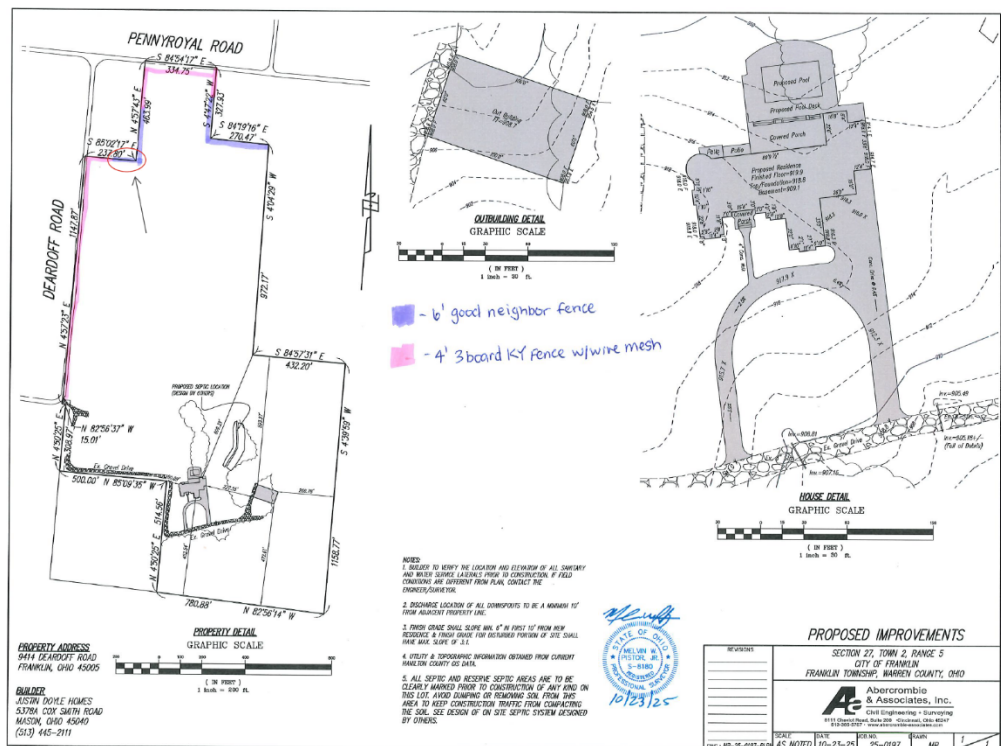
9. Granting of the variance requested will not confer upon the applicant any special privilege that is denied by this UDO to other lands, structures, or buildings in the same district.

**Granting the variance would confer upon the applicant a special privilege that is denied by the UDO to all other properties in the R-1A District.**

**Variance Request #3:** Section 1107.11(j)(2)(A)(i)(1): Fences and walls located in any front yard shall be a maximum height of four feet and contain a minimum of 40 percent transparency, unless specifically authorized herein.

*Comments: A section of the fencing in the front yard along Deardoff Road is proposed to be six-foot tall and opaque.*

**Overview:** The applicant proposes two types of fencing along the western and northern property lines. Along Deardoff Road and Pennyroyal Road, a four-foot Kentucky Board fence is proposed, which meets the requirements of the UDO (see pink areas in the graphic below). In addition, to provide increased privacy for adjacent property owners, the applicant proposes a six-foot “Good Neighbor” opaque fence, which generally complies with the UDO based on the setback requirements in Section 1107.11(j)(2)(B)(iii) (see purple areas in the graphic below). However, under the UDO, the highlighted portion of the six-foot fence would be required to be limited to a maximum height of four feet and include a minimum of 40 percent transparency.



**Comments:**

Variance General Standards for Approval:

Standards for Approval: Unless other standards are provided in this UDO for variances from a particular set of design/development standards or regulations, the following Standards for Approval shall apply. Approval of a variances shall only be granted if the Appeals Board finds that all of the following standards are met:

1. Special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures within the same zoning district. (Examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness, or steepness of the lot, etc.).  
**The property is approximately 48 acres, which is significantly larger than other properties located in the R-1A District which has a minimum lot size of 15,000 square feet.**
2. The special conditions or circumstances that exist did not result from the actions of the applicant.  
**The special conditions did not result from the actions of the applicant.**
3. There cannot be any beneficial use of the property without the variance.  
**Without the variance, the screening of the property from adjacent residences would be diminished, however the applicant would be permitted to construct a four-foot fence that is 40% transparent.**
4. The variance is not substantial and is the minimum relief necessary to make possible the reasonable use of the land or structures.  
**The requested variance is not substantial.**
5. The difficulty or reason why the applicant is seeking a variance cannot be resolved through any method other than a variance.  
**A variance is the minimum relief necessary to allow for the location of the six-foot opaque fence.**
6. The essential character of the neighborhood will not be substantially altered nor will adjoining properties would suffer substantial detriment as a result of the variance.  
**The essential character of the neighborhood will not be substantially impacted.**
7. The variance will not adversely affect the delivery of governmental services such as water, sewer, and trash pickup.  
**Governmental services will not be impacted.**

8. Granting the variance will be in harmony with the general purpose and intent of the zoning requirement the applicant seeks a variance from and will not otherwise be detrimental to the public's health, safety, or welfare.

**Granting the variance will be in harmony with the general purpose and intent of the zoning requirement.**

9. Granting of the variance requested will not confer upon the applicant any special privilege that is denied by this UDO to other lands, structures, or buildings in the same district.

**The applicant will not be conferred a special privilege that is denied to other lands, structures, or buildings in the R-1A Zoning District.**

**Variance Request #4:** **Section 1107.11(w)(1)(B):** Maximum height is 15 feet, except for lots over two acres where the maximum height is 20 feet. In no case shall a storage structure exceed the maximum height of the principal building.

*Comments: The proposed storage structure is 29 feet and four inches in height.*

**Overview:** The proposed out building requires a variance for height as a height of 20 feet is the maximum allowed for an accessory storage structure for a residential property while the proposed structure is 29 feet and four inches tall. The applicant stated that a 20-foot height restriction would limit the interior clear height to roughly nine or 10 feet which would be insufficient to properly store property maintenance equipment, recreational vehicles, or larger pickup trucks and SUVs. The applicant has noted that due to the size of the property and location of the proposed out building (900 feet from Deardoff Road and 320 feet from the side lot lines), the structure will be entirely screened from view.

**Comments:** Variance General Standards for Approval:

Standards for Approval: Unless other standards are provided in this UDO for variances from a particular set of design/development standards or regulations, the following Standards for Approval shall apply. Approval of a variances shall only be granted if the Appeals Board finds that all of the following standards are met:

1. Special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures within the same zoning district. (Examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness, or steepness of the lot, etc.).  
**The property is approximately 48 acres, which is significantly larger than other properties located in the R-1A District which has a minimum lot size of 15,000 square feet.**
2. The special conditions or circumstances that exist did not result from the actions of the applicant.  
**The special conditions did not result from the actions of the applicant.**
3. There cannot be any beneficial use of the property without the variance.  
**Without the variance, the use of property would be diminished as the height of the out building is necessary to store maintenance equipment for the 48-acre property as well as larger vehicles.**
4. The variance is not substantial and is the minimum relief necessary to make possible the reasonable use of the land or structures.  
**The requested variance is not substantial.**

5. The difficulty or reason why the applicant is seeking a variance cannot be resolved through any method other than a variance.  
**A variance is the minimum relief necessary to allow for the height of the proposed out building.**
6. The essential character of the neighborhood will not be substantially altered nor will adjoining properties would suffer substantial detriment as a result of the variance.  
**The essential character of the neighborhood will not be substantially impacted.**
7. The variance will not adversely affect the delivery of governmental services such as water, sewer, and trash pickup.  
**Governmental services will not be impacted.**
8. Granting the variance will be in harmony with the general purpose and intent of the zoning requirement the applicant seeks a variance from and will not otherwise be detrimental to the public's health, safety, or welfare.  
**Granting the variance will be in harmony with the general purpose and intent of the zoning requirement.**
9. Granting of the variance requested will not confer upon the applicant any special privilege that is denied by this UDO to other lands, structures, or buildings in the same district.  
**The applicant will be conferred a special privilege that is denied to other lands, structures, or buildings in the R-1A Zoning District.**

**Variance Request #5:** **Section 1107.11(w)(1)(C):** A maximum of two storage structures are permitted per lot.

*Comments: Two storage structures currently exist on the property (wood storage building and barn). The proposed construction of the barn would result in the property containing three storage structures.*

**Overview:** As there are two existing storage structures on the property (wood storage structure and barn), the construction of the proposed out building would require a variance for the total number of storage structures. The applicant noted that due to the size of the property, the inclusion of a third storage structure is necessary for additional storage for equipment, vehicles, or materials essential to maintaining the land, supporting hobbies, or rural living activities.

**Comments:** Variance General Standards for Approval:

Standards for Approval: Unless other standards are provided in this UDO for variances from a particular set of design/development standards or regulations, the following Standards for Approval shall apply. Approval of a variances shall only be granted if the Appeals Board finds that all of the following standards are met:

1. Special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures within the same zoning district. (Examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness, or steepness of the lot, etc.).  
**The property is approximately 48 acres, which is significantly larger than other properties located in the R-1A District which has a minimum lot size of 15,000 square feet.**
2. The special conditions or circumstances that exist did not result from the actions of the applicant.  
**The special conditions did not result from the actions of the applicant.**
3. There cannot be any beneficial use of the property without the variance.  
**Without the variance, the use of property would be diminished as the out building is necessary to store maintenance equipment for the 48-acre property as well as larger vehicles.**
4. The variance is not substantial and is the minimum relief necessary to make possible the reasonable use of the land or structures.  
**The requested variance is not substantial.**

5. The difficulty or reason why the applicant is seeking a variance cannot be resolved through any method other than a variance.  
**A variance is the minimum relief necessary to allow for the proposed out building.**
6. The essential character of the neighborhood will not be substantially altered nor will adjoining properties would suffer substantial detriment as a result of the variance.  
**The essential character of the neighborhood will not be substantially impacted.**
7. The variance will not adversely affect the delivery of governmental services such as water, sewer, and trash pickup.  
**Governmental services will not be impacted.**
8. Granting the variance will be in harmony with the general purpose and intent of the zoning requirement the applicant seeks a variance from and will not otherwise be detrimental to the public's health, safety, or welfare.  
**Granting the variance will be in harmony with the general purpose and intent of the zoning requirement.**
9. Granting of the variance requested will not confer upon the applicant any special privilege that is denied by this UDO to other lands, structures, or buildings in the same district.  
**The applicant will not be conferred a special privilege that is denied to other lands, structures, or buildings in the R-1A Zoning District.**

**Variance Request #6:** **Section 1107.11(x)(1)(B):** All swimming pools or parts thereof shall be located in the rear yard, shall be at least ten feet (10') from the side or rear line of the lot or parcel upon which it is situated, and shall be at a distance 10 feet greater than the building setback line as fixed by the UDO from any street on which such lot or parcel abuts. The area of the swimming pool proper, including decks, walks and other appurtenances, shall not exceed the percentage of lot area specified in Section 1107.19(a)(4).

*Comments: The pool is proposed to be located in the side yard.*

**Overview:** Due to the proposed location of the principal single-family dwelling, the accessory swimming pool is considered to be located in the side yard. The applicant noted that due to the property's topography and layout, the single-family dwelling was oriented in a manner to allow for a rear walkout basement that places the pool at the back of the dwelling.

**Comments:** Variance General Standards for Approval:

Standards for Approval: Unless other standards are provided in this UDO for variances from a particular set of design/development standards or regulations, the following Standards for Approval shall apply. Approval of a variances shall only be granted if the Appeals Board finds that all of the following standards are met:

1. Special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures within the same zoning district. (Examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness, or steepness of the lot, etc.).  
**The property is approximately 48 acres, which is significantly larger than other properties located in the R-1A District which has a minimum lot size of 15,000 square feet.**
2. The special conditions or circumstances that exist did not result from the actions of the applicant.  
**The special conditions did not result from the actions of the applicant.**
3. There cannot be any beneficial use of the property without the variance.  
**Without the variance, the use of property would be diminished as the accessory pool would need to be located in the rear yard of the property which would be considered the "side" of the proposed single-family dwelling.**
4. The variance is not substantial and is the minimum relief necessary to make possible the reasonable use of the land or structures.  
**The requested variance is not substantial.**

5. The difficulty or reason why the applicant is seeking a variance cannot be resolved through any method other than a variance.  
**A variance is the minimum relief necessary to allow for the location of the swimming pool.**
  
6. The essential character of the neighborhood will not be substantially altered nor will adjoining properties would suffer substantial detriment as a result of the variance.  
**The essential character of the neighborhood will not be substantially impacted.**
  
7. The variance will not adversely affect the delivery of governmental services such as water, sewer, and trash pickup.  
**Governmental services will not be impacted.**
  
8. Granting the variance will be in harmony with the general purpose and intent of the zoning requirement the applicant seeks a variance from and will not otherwise be detrimental to the public's health, safety, or welfare.  
**Granting the variance will be in harmony with the general purpose and intent of the zoning requirement.**
  
9. Granting of the variance requested will not confer upon the applicant any special privilege that is denied by this UDO to other lands, structures, or buildings in the same district.  
**The applicant will be not be conferred a special privilege that is denied to other lands, structures, or buildings in the R-1A Zoning District.**

**Variance Request #7:** **Section 1107.11(x)(2)(A):** Every swimming pool shall be completely enclosed by a fence or barrier of sturdy construction not less than 48 inches in height, measured from the level of the ground where located, which shall be of such design and construction as to effectually prevent a child from crawling or otherwise passing through or under such fence. Each gate in such fence or barrier shall be provided with a self-latching gate. Where the top of the pool structure is above grade, such as an aboveground pool, the barrier shall be permitted to be at ground level, such as the pool structure, or mounted on top of the pool structure. No part of any fence shall be located between the building setback line and the street on which the lot or parcel abuts.

*Comments: The pool is proposed to have a cover, however the UDO stipulates that in-ground pools must be enclosed by a fence or barrier not less than 48 inches in height.*

**Overview:** A variance is required as the in-ground swimming pool is not proposed to be enclosed by a fence or barrier not less than 48 inches in height. However, Section 1107.11(x)(2)(B) allows the BZA to make an exception to, or modifications of, the requirements for a fence if the Board determines such a requirement is not essential to safety and the enforcement of the regulations would place an undue hardship on the owners.

**Comments:** Variance General Standards for Approval:

Standards for Approval: Unless other standards are provided in this UDO for variances from a particular set of design/development standards or regulations, the following Standards for Approval shall apply. Approval of a variance shall only be granted if the Appeals Board finds that all of the following standards are met:

1. Special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures within the same zoning district. (Examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness, or steepness of the lot, etc.).  
**The property is approximately 48 acres, which is significantly larger than other properties located in the R-1A District which has a minimum lot size of 15,000 square feet.**
2. The special conditions or circumstances that exist did not result from the actions of the applicant.  
**The special conditions did not result from the actions of the applicant.**
3. There cannot be any beneficial use of the property without the variance.  
**Without the variance, a fence or barrier would be required to be constructed around the proposed swimming pool which appears unnecessary based on the location of the pool as well as the cover.**

4. The variance is not substantial and is the minimum relief necessary to make possible the reasonable use of the land or structures.  
**The requested variance is not substantial.**
5. The difficulty or reason why the applicant is seeking a variance cannot be resolved through any method other than a variance.  
**A variance is the minimum relief necessary to not permit a fence or barrier around the proposed swimming pool.**
6. The essential character of the neighborhood will not be substantially altered nor will adjoining properties would suffer substantial detriment as a result of the variance.  
**The essential character of the neighborhood will not be substantially impacted.**
7. The variance will not adversely affect the delivery of governmental services such as water, sewer, and trash pickup.  
**Governmental services will not be impacted.**
8. Granting the variance will be in harmony with the general purpose and intent of the zoning requirement the applicant seeks a variance from and will not otherwise be detrimental to the public's health, safety, or welfare.  
**Granting the variance will be in harmony with the general purpose and intent of the zoning requirement.**
9. Granting of the variance requested will not confer upon the applicant any special privilege that is denied by this UDO to other lands, structures, or buildings in the same district.  
**The applicant will be not be conferred a special privilege that is denied to other lands, structures, or buildings in the R-1A Zoning District.**

**Variance Request #8:** **Section 1111.07(d)(1)(A):** All off-street parking and loading areas including spaces, driveways, aisles, circulation drives, and other vehicular maneuvering areas shall be paved with a hard surface and shall be adequately drained.

*Comments: The driveway is proposed to remain gravel.*

**Overview:** The applicant is requesting a variance to keep the existing gravel driveway on the property which extends from Deardoff Road along the southern property line to the interior of the site. The UDO requires that all driveways outside of the agricultural zoning district be paved with blacktop, concrete, or pavers. The gravel driveway is proposed to connect to a paved driveway near the proposed single-family dwelling. The applicant notes that their intent is to construct a properly engineered and maintained compact gravel driveway so it is assumed that the applicant intends to improve upon the existing driveway. The applicant also notes that gravel driveways are not uncommon in the surrounding area and along Deardoff Road.

**Comments:** Variance General Standards for Approval:

Standards for Approval: Unless other standards are provided in this UDO for variances from a particular set of design/development standards or regulations, the following Standards for Approval shall apply. Approval of a variances shall only be granted if the Appeals Board finds that all of the following standards are met:

1. Special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures within the same zoning district. (Examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness, or steepness of the lot, etc.).  
**The property is approximately 48 acres, which is significantly larger than other properties located in the R-1A District which has a minimum lot size of 15,000 square feet.**
2. The special conditions or circumstances that exist did not result from the actions of the applicant.  
**The special conditions did not result from the actions of the applicant.**
3. There cannot be any beneficial use of the property without the variance.  
**Without the variance, the applicant will still have beneficial use of the property as a single-family dwelling.**
4. The variance is not substantial and is the minimum relief necessary to make possible the reasonable use of the land or structures.  
**The requested variance is not substantial as there is an existing gravel driveway.**

5. The difficulty or reason why the applicant is seeking a variance cannot be resolved through any method other than a variance.  
**A variance is the minimum relief necessary to allow for a gravel driveway.**
6. The essential character of the neighborhood will not be substantially altered nor will adjoining properties would suffer substantial detriment as a result of the variance.  
**The essential character of the neighborhood will not be substantially impacted. Several surrounding properties utilize gravel driveways.**
7. The variance will not adversely affect the delivery of governmental services such as water, sewer, and trash pickup.  
**Governmental services will not be impacted.**
8. Granting the variance will be in harmony with the general purpose and intent of the zoning requirement the applicant seeks a variance from and will not otherwise be detrimental to the public's health, safety, or welfare.  
**Granting the variance will be in harmony with the general purpose and intent of the zoning requirement.**
9. Granting of the variance requested will not confer upon the applicant any special privilege that is denied by this UDO to other lands, structures, or buildings in the same district.  
**The applicant will be not be conferred a special privilege that is denied to other lands, structures, or buildings in the R-1A Zoning District.**