

**A G E N D A**  
**ALLEN COUNTY HEARING OFFICER**

The Zoning Hearing Officer will conduct a public hearing in Room #30, Garden Level, Citizens Square  
200 East Berry Street, Fort Wayne, Indiana on Wednesday December 10, 2014 at 8:30 a.m.

**NEW BUSINESS**

- 1. Case No.: RVAR-2014-0163  
Applicant: Maxim Real Estate  
Location: 12628 US Highway 33  
Appeal: An appeal to renew and amend use variance 2907/09 allowing a medical equipment warehousing, refurbishing, and light manufacturing business in an A1 zoning district.
  
- 2. Case No: DSV-2014-0164  
Applicant: Nancy Mills  
Location: 3232 Shoaff Road  
Appeal: An appeal for a development standards variance to reduce the front yard setback from 115 feet to 57 feet for the construction of a residential home in an A1 zoning district.
  
- 3. Case No: SU-2014-0170  
Applicant: Empower Energies, Inc. for General Motors Company, LLC  
Location: 12200 Lafayette Center Road  
Appeal: A request for a special use to allow ground mounted solar panels in an I3 zoning district.

**Allen County Zoning Hearing Officer  
Staff Report**

**Case Number: RVAR-2014-0163**

**December 10, 2014**

**Request:** An appeal to renew and amend use variance 2907/09 allowing a medical equipment warehousing, refurbishing, and light manufacturing business in an A1 zoning district.

**Location:** 12628 US Highway 33



**Applicant:** Maxim Real Estate

**Property Owners:** Maxim Real Estate Holdings, LLC

**Legal Description:** Metes and bounds – see file

**Size of Property:** 6.35 acres

**Applicable Ordinance Section(s):**

- ACC 3-14-1-2 (a)(3)

**Notified:**

- 9 Neighboring Property Owners

**Adjacent Land Uses:**

North – Commercial/Industrial  
South – Commercial/Industrial  
East – Industrial  
West – residential

**Most Recent BZA/HO History:**

Use Variance 2907/09 allowing a medical equipment warehousing, refurbishing, and light manufacturing business. Granted with conditions.

**Staff Discussion:**

The applicant is operating a medical equipment warehousing, refurbishing, and light manufacturing business at the above location approved by the Board of Zoning appeals in December 2009. The Board conditioned the approval, including a five year approval period, subject to renewal. The applicant is renewing and requesting amendments to the current conditions of approval.

The property has been used for light manufacturing purposes since at least the mid-1960's.

The property is located on the east side of US Highway 33 just south of Churubusco, Indiana. The 6.35 acre property includes two buildings. The larger building is 46,212 square feet and includes office, warehouse, and manufacturing space. There is ample paved parking and truck dock facilities. The smaller 2916 square foot building was approved and built as a maintenance garage. The applicant stated in 2009 their intent to use most of the building for their business.

**Current Conditions of Approval with suggested updates indicated with strikeouts and bold text:**

The Property Owner/Applicant shall execute and record a new written commitment concerning the use and development of the real estate. The terms and conditions of the written commitment shall include the following conditions of approval in conformance with Board's Rules of Procedure. The approval shall not be effective unless and until the property owners of the real estate have recorded, executed and delivered the recorded written commitment to the Zoning Administrator within 30 days of the decision.

1. Approval shall run for ~~5~~ **10** years, subject to renewal, unless notified by the Zoning Administrator of non-conforming status and revoked by the Board after a public hearing.
2. To restrict accountability and responsibility for the operation and to make future operations compatible with the surrounding property, this variance shall run with the real estate and not the applicant.
3. Approval shall be terminated and of no further effect in the event the proposed use is discontinued for a period of 12 months. Upon such termination, no reestablishment of the use in any form shall occur without favorable action (including new findings of fact/law and conditions of approval) by the Board/ZHO or any successor agency.
4. Permits and approval from all applicable federal, state, and local agencies shall be required.
5. **Approved uses include medical equipment warehousing, refurbishing, light manufacturing, and related office uses to this medical equipment operation.**
6. Hours of operation shall be unlimited to 8:00 a.m. to 6:00 p.m., Monday through Friday and 8:00 a.m. to 12:00 p.m., on Saturday.
7. The number of **on-site** employees shall be limited to 40.
8. Signage shall be permitted, but may not exceed 300 square feet of wall signs and a free-standing sign of up to 150 square feet without an additional approval. Any new signs will require permits.
9. There shall be no outside storage and display of business related items.
10. **Exterior lighting is limited to \_\_\_\_\_.**
11. The site shall be kept clean and free of and all refuse, junk, and debris including scrap materials, surplus equipment, and similar materials.
12. A dumpster shall be permitted on the existing pad east of the primary building.
13. Expansion beyond the 46,212 square foot building and 2,916 square foot accessory building shall require Board of Zoning Appeals approval.
14. Waste material shall be disposed of in a manner conforming to local, state and federal regulations.
15. The Board of Zoning Appeals hereby grants the Allen County Zoning Administrator or her/his designated staff authority upon written request to consider and extension of any Board approved condition, except condition 1, for a period not to exceed six months.
16. These conditions are enforceable by the Allen County Board of Zoning Appeals, or any successor agency to the Board.



# Allen County Zoning Hearing Officer Staff Report

**Case Number: DSV-2014-0164**

**December 10, 2014**

**Request:** An appeal for a development standards variance to reduce the front yard setback from 115 feet to 57 feet for the construction of a residential home in an A1 zoning district.

**Location:** 3232 Shoaff Road



**Applicants:** Nancy Mills

**Property Owner:** Nancy Mills

**Legal Description:** Metes and bounds - see file

**Size of Property:** 8.50 acres

**Applicable Ordinance Section:**

- 3-2-3-5 (a)

**Township and Section:**

- Perry 7

**Notified:**

- 6 Property Owners Notified

**Adjacent Zoning & Land Uses:**

- North – A1/Agricultural
- South – A1/ Agricultural/Residential
- East – A1/ Agricultural/Residential
- West – A1/Agricultural

**BZA History:**

None prior to this request.

**Staff Discussion:**

The applicant is proposing to reduce the front yard setback for the reconstruction of a residential home. This request is available only by approval of the Allen County Hearing Officer.

The property is located to the north of Shoaff Road. The applicant is proposing to expand the existing home by using some of the existing walls of the home. The expansion will not go beyond the front of the existing home but will be expanded to the east, north and west of the existing walls of the home. The addition will also include a garage. The current setback for the existing south wall is 57 feet and the Allen County Ordinance requires a minimum of 115 feet to the centerline of Shoaff Road. The applicant is asking to reduce the front yard setback to 57 feet. The property is surrounded by agricultural and rural residential uses.

The applicant did not give detailed information concerning the legal tests for how the use and value of the area adjacent to the property included in the variance will not be affected nor did they answer the question concerning the practical difficulties to the use of the property if the terms of the Zoning Ordinance would be applied. The Hearing Officer may want to question the applicant about the legal tests at the time of the hearing.

Staff is not aware of any concerns from the surrounding property owners at the time of the writing of the staff report.

**Notes if Approved:**

- An Improvement Location Permit through the Department of Planning Services and Building Permits through the Allen County Building Department are required for all new construction.
- The approved setback is applicable to the rebuilt house including any attached porches and decks.

**Notes:**

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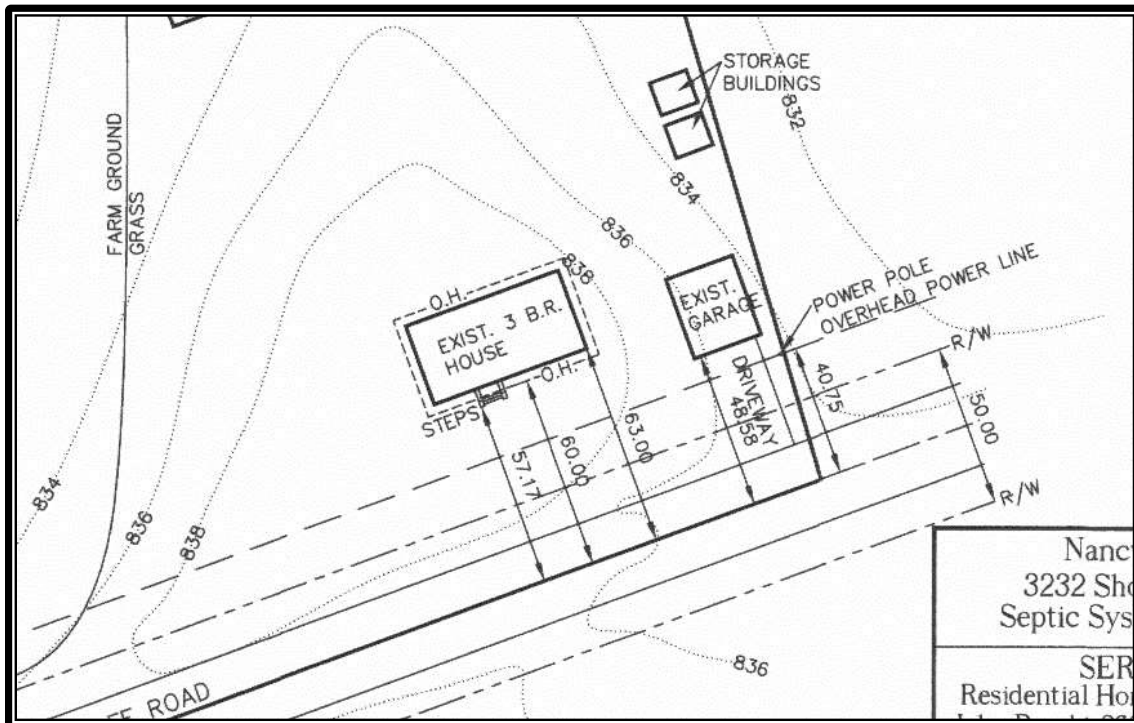
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Nancy Mills 3332 Shauff Road Septic System Design	Existing Site Plan	C11
SERVANT DESIGN INC. Residential Home Design - Septic System Design John Brock 200-637-0477 or john.brock@pdinc.com 17129 Friendship Dr. Hazlet, IN 46746		
BUTTING RELATED MODIFICATIONS OR PLANS DISCREPANCIES SHOULD BE CORRECTED PRIOR TO CONSTRUCTION BY CALLING JOHN BROCK AT 413-3477		

# Allen County Zoning Hearing Officer Staff Report

**Case Number: SU-2014-0170**

**December 10, 2014**

**Request:** A request for a special use to allow ground mounted solar panels in an I3 zoning district.

**Location:** 12200 Lafayette Center Road



**Applicant:** Empower Energies, Inc.

**Property Owners:** General Motors Company, LLC

**Legal Description:** Metes and Bounds - See File

**Size of Property:** 716 acres

**Applicable Ordinance Section(s):**

- 3-1-24-3 (a,8)

**Township & Section:**

- Lafayette 16

**Notified:**

- 3 Neighboring Property Owners

**Adjacent Land Uses:**

North – A1/Residential  
South – BTI/Industrial  
East – A1/Interstate 69  
West – I1 & I3/Industrial

**BZA History:**

None prior to this request



**Staff Discussion:**

The applicant is seeking permission to install ground-mounted solar panels. This type of structure may be permitted in the I3/Intensive Industrial zoning district with special use approval.

The applicant would like to install a 14.4 kilowatt ground mounted solar system. The system is proposed to be placed on the east side of the property along I-69 north of the truck display. Based on the submitted site plan the units would likely be visible to travelers along I-69 and possibly to (agricultural) neighbors across the highway.

As the applicant notes, the installation site is on the grounds of the assembly plant and fenced off from the general public. Little additional information is provided other than the statement that “This initiative is part of General Motors Company LLC Sustainability Efforts towards 350MW of renewable energy by 2020. It shows the community that solar is a very important for the future of energy generation. We are trying to set an example for the community and for the world.”

The Hearing Officer may want to question the applicant about specifications of the system, what components if any would be visible to the general public and long-term plans at the site. Staff also recommends a written commitment if approved as provided for in State law.

**Notes if Approved:**

Should the Hearing Officer find the proposal meets the legal tests; staff would note that construction and operation would be subject to the following requirements:

- An Improvement Location Permit through the Department of Planning Services and Building Permits through the Allen County Building Department are required for all new construction.

**Suggested Conditions of Approval:**

Should the Hearing Officer find that the proposal meets the legal tests for approval; staff would preliminarily recommend the following conditions:

- The Property Owner/Applicant shall execute and record a written commitment concerning the use and development of the real estate. The terms and conditions of the written commitment shall include the following conditions of approval in conformance with Board’s Rules of Procedure. The approval shall not be effective unless and until the property owners of the real estate have recorded, executed and delivered the recorded written commitment to the Zoning Administrator within 60 days of the decision.
  1. Approval shall run continuously, unless notified by the Zoning Administrator or successor agency of non-compliance status and revoked by the Board after a public hearing.
  2. This special use shall run with the real estate.
  3. Approval shall be terminated and of no further effect in the event the proposed use is not established within 12 months or discontinued for a period of 24 months. Upon such termination, no reestablishment of the use in any form shall occur without favorable action (including new findings of fact/law and conditions of approval) by the Board/ ZHO or any successor agency.
  4. Expansion beyond the proposed 1200 square foot system shall require Board of Zoning Appeals, or successor agency, approval.
  5. The solar structure shall be installed in the location shown on the submitted site plans subject to slight modification to account for terrain and other site conditions.
  6. The Board of Zoning Appeals hereby grants the Allen County Zoning Administrator or her/his designated staff authority upon written request to consider an extension of any Board approved condition for a period not to exceed six months.
  7. These conditions are enforceable by the Allen County Board of Zoning Appeals, or any successor agency to the Board.

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The composite image consists of several parts:

- Top Left:** A site plan showing a solar array layout on a sloped terrain. A north arrow is in the top left corner. The plan includes labels for 'Existing Electrical Work' and 'Proposed Solar Array'.
- Top Right:** A structural diagram of a solar panel mounting system. It shows a panel tilted at 30 degrees. Dimensions include a 154" length, a 24" height, and a 90-degree angle between the panel and the support structure.
- Middle Right:** A photograph of a solar panel array installed on a roof.
- Bottom Right:** A photograph of electrical equipment, including a red fire extinguisher and several metal cabinets.
- Bottom Left:** A photograph of a large field with a fence in the foreground and a line of trees in the distance. A solar panel is visible in the field.
- Right Side:** A vertical strip containing a logo for 'SUNSHINE ENERGY', a table for 'PERMITS AND APPROVALS', a table for 'PERMITS AND APPROVALS', and a table for 'PERMITS AND APPROVALS'.