



AGENDA

Regularly Scheduled Hearing

June 20, 2023 | 7:00 p.m. | 555 Frost Rd., Streetsboro, Ohio 44241

- I. **Call to Order**
- II. **Pledge of Allegiance**
- III. **Roll Call**
- IV. **Disposition of Minutes:**
August 16, 2022; September 20, 2022; October 18, 2022; December 20, 2022, January 17, 2023;
February 21, 2023
- V. **Old Business**
- VI. **New Business:**
Application #VRA23-5 160 Diamond Blvd
Applicant Charlene McKenna is requesting a 19-foot variance from Section 1127.04(b) to allow for the construction of a deck with a rear yard setback of 31-feet as code requires 50-feet.
- VII. **Citizens' Comments**
- VIII. **Board Member Comments:**
A Work Session for the Board of Zoning and Building Appeals will be held immediately following this Hearing at City Hall, 555 Frost Rd.

The next regularly scheduled Board of Zoning and Building Appeals meeting will be held on Tuesday, July 18, 2023 at 7 p.m. in the Council Chambers at City Hall, 555 Frost Rd.
- IX. **Adjournment**

Immediately after the meeting

for the Board of Zoning and Building Appeals Members - no action will be taken

**WORK SESSION
AGENDA**

Presenter: Paul Janis, Assistant Law Director

1. **Introduction**
2. **BZBA Jurisdiction**
3. **Ohio Public Meetings Law - Review**
4. **Legal Standards for Granting Variance from Zoning Laws**
5. **Adjournment**

STREETSBORO BOARD OF ZONING AND BUILDING APPEALS

MINUTES

August 16, 2022

Note: These minutes were compiled by extracting certain facts from the essence of testimony of an audio recording made of this meeting. Complete detail and verbatim statements can be heard and transcribed from the recording available in the Planning and Zoning office.

Call to Order: Chairperson Bross called the hearing to order at 7:00 p.m.

Pledge of Allegiance

Roll Call: Matt Bross, Walter Kancyan, Doug Liebler, Anthony Madden, and Marvin Woods were present. Aaron Hanzo and Todd Cooper were absent.

Also present: Planning and Zoning Director John H. Cieszkowski Jr., Assistant Planner Jimmy Hoppel, Law Director Paul A. Janis, and Clerk Angella Fausset.

A motion to excuse the absence of Mr. Hanzo and Mr. Cooper was made by Mr. Woods and seconded by Mr. Madden. By voice vote, motion carried.

Chairman Bross read the rules for how the meeting is to proceed.

New Business:

Seasons Rd

Application #VRA22-6

PPN# 35-081-00-00-014-000

Zoning District: R-R Rural Residential

Applicant, Environmental Design Group, on behalf of the contracted land buyer Mr. Chizmar, of the Elisabeth Chizmar Trust, is requesting a 68.03-foot variance from Section 1125.03(b) to allow for a lot split to create a parcel with a 131.97-foot lot width at the building setback line as code requires a 200-foot minimum lot width at the building line setback.

The chairman swore in the applicant Chris Chizmar, 3184 Oakland Park Boulevard, Stow, Ohio. Mr. Chizmar stated before the Board the reason for the variance requested is to split the parcel into three lots to build three homes. Steve Miller from Rembrandt Homes 11395, Billingham Avenue northwest, Uniontown, Ohio was also present to represent the application at the hearing. He informed the Board that he would be the builder of the three potential homes for the Chizmar family who intend on purchasing the lot from a developer. The Chizmar's would like to build two homes with the potential for a third home for his daughter. Plans include putting in a road with a driveway easement to utilize as the access point from Seasons Road. Mr. Miller ensured the Board that the impact to the front of the lot would be minimal, the homes would be built towards the back of the deep lot as to not impact the wetlands.

Jimmy Hoppel, Assistant Planner, clarified for the Board that the variance is for the lot width of proposed lot #3 at the building setback line which is 150' off the road. The lot width is required to be 200' but due to the limited access to the road, it wouldn't be possible without reducing the lot width of lot #3 from 200' down to 131.97' at the building setback line. He confirmed that The Planning and Zoning Department had been coordinating with the applicant for the last few months to reduce the variance amount to the minimal requested. John Cieszkowski added that the development proposal of splitting this 87-acre parcel into 3 buildable lots would continue the characteristics of the rural residential district.

Citizen Comments: Edward Smith 8233 Seasons Rd. was sworn in he informed the Board that he lives next door to the property and he would prefer there to be three homes located on the property than a large development or remain vacant. He stated that people trespass on the property and leave garbage.

MOTION

Mr. Madden: I hereby move on this 16th day of August 2022, that the Streetsboro Board of Zoning and Building Appeals grant lot number three from the proposed split of parcel #35-081-00-00-014-000 Seasons Road a 68.03-foot variance from Section 1125.03(b)(1) to be created with a lot width of 131.97-feet at the building setback line, where code requires a minimum lot width of 200-feet at the building setback line for parcels along an existing street where sanitary sewer is not available in the Rural Residential Zoning District. Per the legal descriptions and property split survey received in application #VRA22-6 on July 25, 2022 from the applicant, Environmental Design Group. Subject to the City of Streetsboro’s site plan review and all applicable Planning and Zoning ordinances.

Motion seconded by Mr. Liebler.

Roll Call Vote:

Mr. Madden: I was very worried at first, but between our council and your testimony, I am completely at ease with the move forward. I always thank our applicant for working with our planning department. You'd be surprised how many don't so I vote yes and thank you for your presentation.

Mr. Liebler: I vote yes as well. It does appear to be a minimum variance in it when the spirit of the code to keep the lot with reasonable net district there but you're going to be so far back. It's almost kind of semantics here. So again, thank you for bringing your information to us.

Mr. Kancyan: I vote yes for the same as Mr. Liebler and Mr. Madden.

Mr. Woods: I vote yes for the same reasons.

Mr. Bross: Yes, since there are no environmental concerns to put some neighbors at ease and there's really no visibility. I really see no issues with this and to repeat what Mr. Madden said you were diligently with our council and our playing department I have full confidence in them and their abilities to come to a solution.

Yes – 5 No – 0

Motion approved; variance granted.

1144 State Route 303

Application #VRA22-7

PPN# 35-081-00-00-014-000

Zoning District: B - Business

Applicant, Kimberly Horn on behalf of Target Corporation is requesting a variance from Section 1159.14(b) to allow for 2 additional wall signs of 77.1 sq. ft. and 24.59 sq. ft. resulting in a total of 3 wall signs for Target.

The chairman swore in the application representative Jeffrey Immel, Kimberly Horn 7965 North High St. Columbus, Ohio. The applicant explained that Target is requesting 3 signs at this location to be placed on the building. Currently, there are two wall signs on the building because one is for CV. The CVS sign is counted separate because it is for a different business use. Target currently has one wall sign that they are replacing and then the two other signs requested are for the drive-up and order pick-up services that Target offers.

Jimmy Hoppel stated to the Board staff agreed that the signs assisted in wayfinding around a large site and they had been working with representatives for the Target Corporation about a future site plan amendment case that's planning commission will hear regarding the parking lot modifications and facade changes that will go along with these signs.

MOTION

Mr. Madden: I hereby move on this 16th day of August 2022, that the Streetsboro Board of Zoning and Building Appeals grant 1144 State Route 303 Streetsboro, Ohio 44241 Parcel #35-055-00-00-039-015, a variance from Section 1159.14(b) to allow for 2 additional wall signs of 77.1 sq. ft. and 24.59 sq. ft. resulting in a total of 3 wall signs for Target, as code permits one wall sign per business use. Per the plans received in application #VRA22-7 from the applicant, Kimley-Horn on July 25, 2022.

Subject to all Planning and Zoning ordinances and site plan review of the City of Streetsboro where applicable.

Motion seconded by Mr. Woods

Mr. Madden: I'd like to go on record saying, I hate variances like this because I don't like a building bombarded with signs. However, this service that Target is going to be providing, is now a service that many people take instead of shopping for themselves. And your competition has been granted a very similar variance so, while don't like it, I vote yes.

Mr. Woods: I vote yes as well.

Mr. Liebler: I think those signs will be helpful for customers and Target could always put up an 800 square foot sign and no good purpose for that. So, I think they're doing it with the best of intentions with the minimum needed. I vote yes.

Mr. Kancyan: I agree with again with Mr. Liebler. I also think the big box stores are islands themselves and any signs that they can provide to assist their customers and help manage traffic, that's all the better. So, I vote yes.

Mr. Bross: I agree with what is stated for record. Everything else has been said by my fellow Board members. We did this for your competition, Walmart and we I feel it's necessary here as well. I've seen other Target locations around the country where I've seen big signs on them. There is one in Pittsburgh that's got a big sign on the hill behind it by the Pittsburgh airport. This helps the customer; I can see it from that perspective. Given that, I vote yes

Yes – 5 No – 0

Motion approved; variance granted.

Board Member Comments:

Announcements: The next regularly scheduled Board of Zoning and Building Appeals meeting will be held on Tuesday, September 20, 2022 at 7 p.m. in the Streetsboro Municipal Building located at 555 Frost Road.

Adjournment: There being no further business before the Board, a motion to adjourn was made by Mr. Madden and seconded by Mr. Woods and upon voice vote the meeting was adjourned at 7:40 pm.

Attest:

Angella M. Fausset
Clerk

Matt Bross
Chairperson

STREETSBORO BOARD OF ZONING AND BUILDING APPEALS

MINUTES

September 20, 2022

Note: These minutes were compiled by extracting certain facts from the essence of testimony of an audio recording made of this meeting. Complete detail and verbatim statements can be heard and transcribed from the recording available in the Planning and Zoning office.

Call to Order: Chairperson Bross called the September 20, 2022 regularly scheduled hearing to order at 7:00 p.m. in City Council Chambers 555 Frost Rd. Streetsboro, Ohio 44241

Pledge of Allegiance

Roll Call: Matt Bross, Walter Kancyan, Doug Liebler, Todd Cooper, and Marvin Woods were present.

Anthony Madden and Aaron Hatzos were absent.

Also present: Planning and Zoning Director John H. Cieszkowski Jr., Assistant Planner Jimmy Hoppel, Law Director Paul A. Janis, and Clerk Angella Fausset.

Mr. Liebler made a motion to excuse the absence of Mr. Hatzos and Mr. Madden. Motion seconded by Mr. Woods. By voice vote, motion carried unanimously.

Chairman Bross read the rules for how the meeting is to proceed.

Disposition of Minutes: Mr. Cooper made the motion to approve the minutes of the June 21, 2022 meeting. Seconded by Mr. Woods. Upon voice vote, Mr. Liebler abstains stating that he was not present at the June meeting, remaining 4 members vote yes. Motion passes.

New Business:

9256 St. Nicholas Dr

Application #VRA22-8

Parcel #35-047-10-00-047-000

Zoning District: R-1 Low Density Urban Residential

Applicant Chuck Cross is requesting a 17.6-foot variance from Section 1127.04(a) to allow for a front yard setback of 27.4-feet from the Myers Rd. right-of-way as code requires 45-feet.

The chairman swore in the applicant Chuck Cross, 9256 St. Nicholas Dr. Streetsboro OH 44241. Mr. Cross presented to the Board the request for a new and larger deck to replace the existing one which he described was in poor condition. He explained the history of the property stating that the deck currently in place was built almost 50 years ago by his father. Mr. Cross mentioned other improvements being made to the house, such as new siding and windows.

Jimmy Hoppel, Assistant Planner, reviewed the case and highlighted the setback requirements for corner lots, which applied to the property in question. Options other than a variance were explored, including maintaining the current deck or creating an at-grade patio, which would not be subject to setbacks. An at-grade paver patio deck isn't a structure and doesn't have to comply with structure setbacks. Per the code an attached deck has to comply with the setbacks. One of the options available to the applicant outside of just repairing the existing deck in its current configuration was to remove the deck and add a paver patio in its place. That would not have been subject to a variance as noted in the staff comments. The existing deck already encroached into the setback, and the proposal sought to extend it further into the setback. Mr. Hoppel also noted for the board that part of the house encroaches into the 45-foot setback because it's at a slight angle to the right of way, it's anywhere from about 37 to 43 feet from the road. The current eight-

foot deep deck therefore encroaches more into the setback and the request on this application is to allow an additional four more feet into that setback, which is what staff was considering during staff's review.

John Cieszkowski added the primary reason the applicant gave for the requested deck expansion was to accommodate a patio set. Stating that the existing eight-foot deck was too small for this purpose. The property owner wished to increase the deck's dimensions from 8 by 10 feet to 20 by 12 feet to address this limitation.

Staff answered questions from the Board regarding the encroachment of the house. Jimmy clarified that the house does not meet the setback requirements because of its age, and was built before the current setback requirements were established.

MOTION:

Mr. Liebler: I hereby move on this 20th day of September 2022, that the Streetsboro Board of Zoning and Building Appeals grant 9256 St. Nicholas Dr. Streetsboro, Ohio 44241 Parcel #35-047-10-00-047-000 a 17.6-foot variance from Section 1127.04(a) to allow for a front yard setback of 27.4-feet from the Myers Rd. right-of-way as code requires 45-feet. Per the plans received in application #VRA22-8 from the applicant, Chuck Cross on August 4, 2022. A condition to be added that the front yard setback variance shall only apply to an expansion of the proposed deck and shall not apply to an expansion of the principal structure i.e. the single-family dwelling. Subject to all Planning and Zoning ordinances and site plan review of the City of Streetsboro where applicable.

Motion seconded by Mr. Woods.

Roll Call Vote:

Mr. Liebler: I have been struggling with this one because four feet doesn't sound like a lot, but due to the existing setback that's already in place and the fact that this really is a front yard that we're looking at, the dwellings with the corner lot side yard is considered a front yard but this was really the front of the residence, being that it's already so close - sorry, I have to vote no.

Mr. Woods: I also have to vote no, because the encroachment already and there are other alternatives for repairing the deck or replacing with a patio.

Mr. Cooper: I also vote no, given that there are other solutions to the problem and the variance is not the only way solve this.

Mr. Kancyan: Well, I would vote yes, because I feel that the house is built prior to these restrictions and zoning regulations and to impose something retroactively I think is punishment and I think that in addition to that, the honest approach to improve the neighborhood, with the house update seems fair and eight by deck these days is considered very small. You know, you'll run around these neighborhoods today and you see decks that are monster sizes and I think for those reasons I would approve.

Mr. Bross: I would vote yes. This is probably the largest I would allow it. If it were any larger, I would have an issue with it. I know all my points are mute at this time, And the original footprint is small. I have a 10 by 12 deck on my town home. It's barely functional as it is with a four-seat table and a grill. That's all I have on it, and given that, if I would just go by the original footprint, I would approve. But in the end, though, the majority already decided, so I am going to cast a yes vote.

Yes – 2 No – 3

Motion failed; variance denied.

Board Member Comments:

Announcements: The next regularly scheduled Board of Zoning and Building Appeals meeting will be held on Tuesday, October 18, 2022 at 7 p.m. in the Streetsboro Municipal Building located at 555 Frost Road.

Adjournment: There being no further business before this Board a motion to adjourn was made by Mr. Woods and seconded by Mr. Kancyan, upon voice vote the meeting was adjourned at 7:25 pm.

Attest:

Angella M. Fausset
Clerk

Matt Bross
Chairperson

DRAFT



June 20, 2023

Application #VRA23-5

160 Diamond Blvd.

Zoning District: R-1

Request for a 19-foot variance from Section 1127.04(b)
to allow for the construction of a deck with a rear yard
setback of 31-feet as code requires 50-feet.

Joseph and Charlene McKenna
160 Diamond Blvd
Streetsboro, OH 44241

Cell # 330-651-2296

To Whom It May Concern,

This letter is to address the criteria requested by the BZBA regarding our Application for a Variance in order to accommodate a deck project. Please see attached Site Plan drawing.

The property in question would yield a reasonable return and would add benefit to the character of the neighborhood and there would be no detriment to the adjoining properties and would not adversely affect the delivery of governmental services.

Although we are the original occupants of this home, we were not involved in the building of it. It was for sale by the builder, Mark Meyers of DH Meyers Homes, Inc. We did not have any knowledge of the applicable zoning restrictions at that time. There is currently a small deck with 3 steps leading to a concrete patio, which was part of the home's structure at the time of the sale. Our intent is to demolish the small deck / porch and have a new Trex deck built from the house, over the existing patio, almost the whole length of the patio. The small area of cement that is left will be excavated and grass will be planted in it's place. The deck measurements will be 16 X 16' with a 3 X 12' curve with a wrought iron rail.

Our desire to have a deck built from the house is to alleviate the problem of going up and down steps every time the backyard entertainment area is to be used as there are orthopedic issues of both the homeowners as well as relatives. The existing steps make going up and down to the patio area more difficult and somewhat hazardous. Steps and railings will be attached to the deck to provide access to the back sidewalk and yard but will not have to be used each time when going from the house to the deck, which will be a major convenience.

Thank you for your consideration.

Narrative

Joseph and Charlene McKenna
160 Diamond Blvd
Streetsboro, OH 44241

Cell # 330-651-2296

To Whom It May Concern,

This letter is to address the conversation that my husband and I had with Jimmy Hoppel from the Planning and Zoning Department regarding the deck project planned for our backyard.

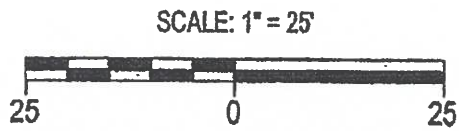
He informed us that according to the Planning and Zoning Code, Part II; Chapter 1127. R-1; Section 1127.04(b) the setback from the structure (deck) is required to be 50 feet from our property line. According to the Zoning Department 50 feet from the property line comes all the way to the back of our house. We were unaware of that as there is an existing porch and patio attached to the back of the house that was there when we purchased our home. We are the original occupants of the house, but we were not involved in the building. The house was a model home in our development built by Mark Meyers of DH Meyers Homes, Inc. We are requesting a variance of 19 feet which includes a 16 X 16' deck with a 3 X 12' curve. The size of the deck is necessary to accommodate a grilling area as well as patio furniture.

Our plan is to demolish the porch and construct a new deck over that area and the cement patio. There would be no detriment to adjoining properties as a result. The end of the deck would fall short of the entire length of the patio and that small area of cement would be excavated and then landscaped.

We are asking that you take the above items into consideration when addressing our application for a variance.

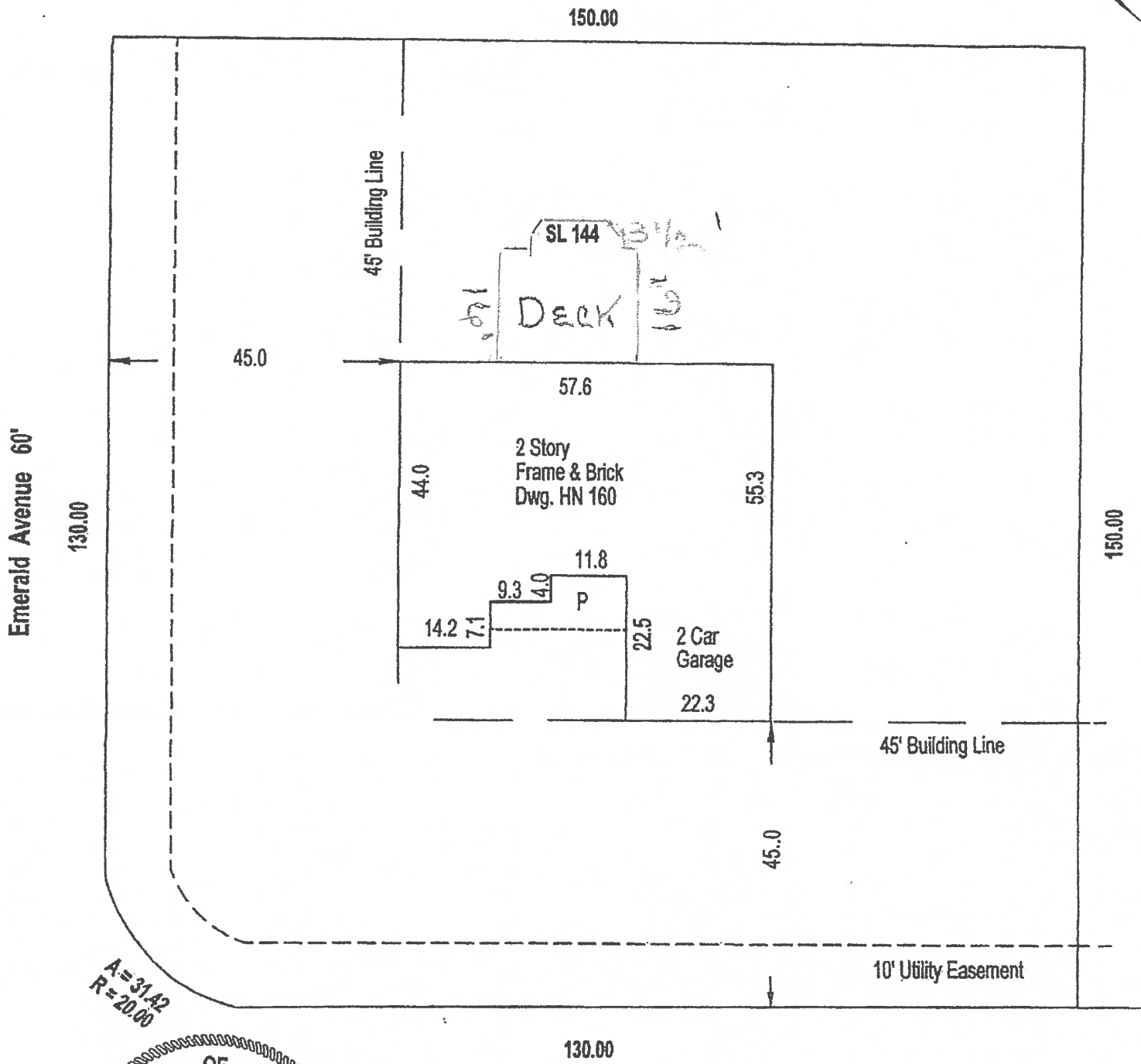
With sincere appreciation.

Joseph and Charlene McKenna



Note: Property line and setback ties allowable error plus or minus 0.5'.

NOTE: This Survey is NOT to be used for Construction Purposes

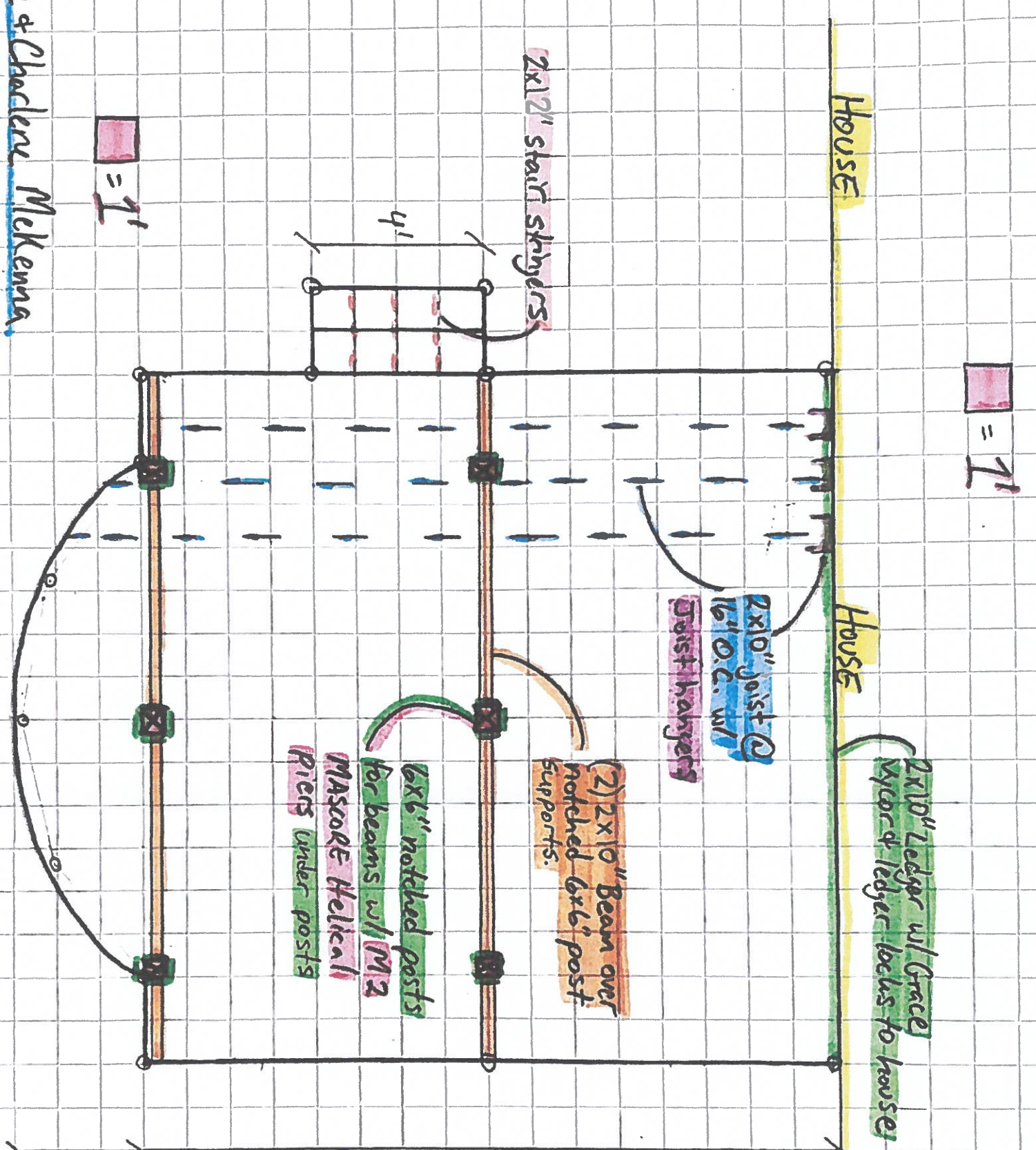


Diamond Boulevard 60'

No. 360282

Pg. 3 of 3

Joe & Chaclene McKenna
 330-651-2296
 160 Diamond Blvd.
 Streetsboro, OH 44224



- Elevation @ 22"
- All #1 pressure treated lumber
- Decking Boards: Deckorathics Ventures Sandbar (Brown)
- Facia: Same Sandbar (Brown)
- Border: NONE
- Skirting: Sandbar (Brown)
- Rails: Deckorathics ALX Black aluminum w/ square spindles

LEGEND

- 5/8" CAPPED REBAR TO BE SET, (3304)
- IRON PIN FOUND (TYPE & SIZE AS INDICATED)
- MONUMENT ASSEMBLY TO BE SET
- MONUMENT FOUND
- ★ 1" REBAR TO BE SET
- P.K. NAIL SET
- P.K. NAIL FOUND
- CURVE DATA
- EX. FIRE HYDRANT
- EX. VALVE
- EX. MANHOLE
- EX. BOX INLET
- EX. CURB INLET
- EX. TREE
- LIGHT POLE
- POWER POLE
- PROP. FINISHED ELEVATION
- EX. GROUND ELEVATION

C1 CURVE DATA

DELTA = 90°00'00"
 RADIUS = 20.00'
 TANGENT = 20.00'
 CHORD = 28.28'
 LENGTH = 31.42'
 CHORD BEARING = S 01°25'38" E

LOT BENCHMARK:

PLOT PLAN NOTES:

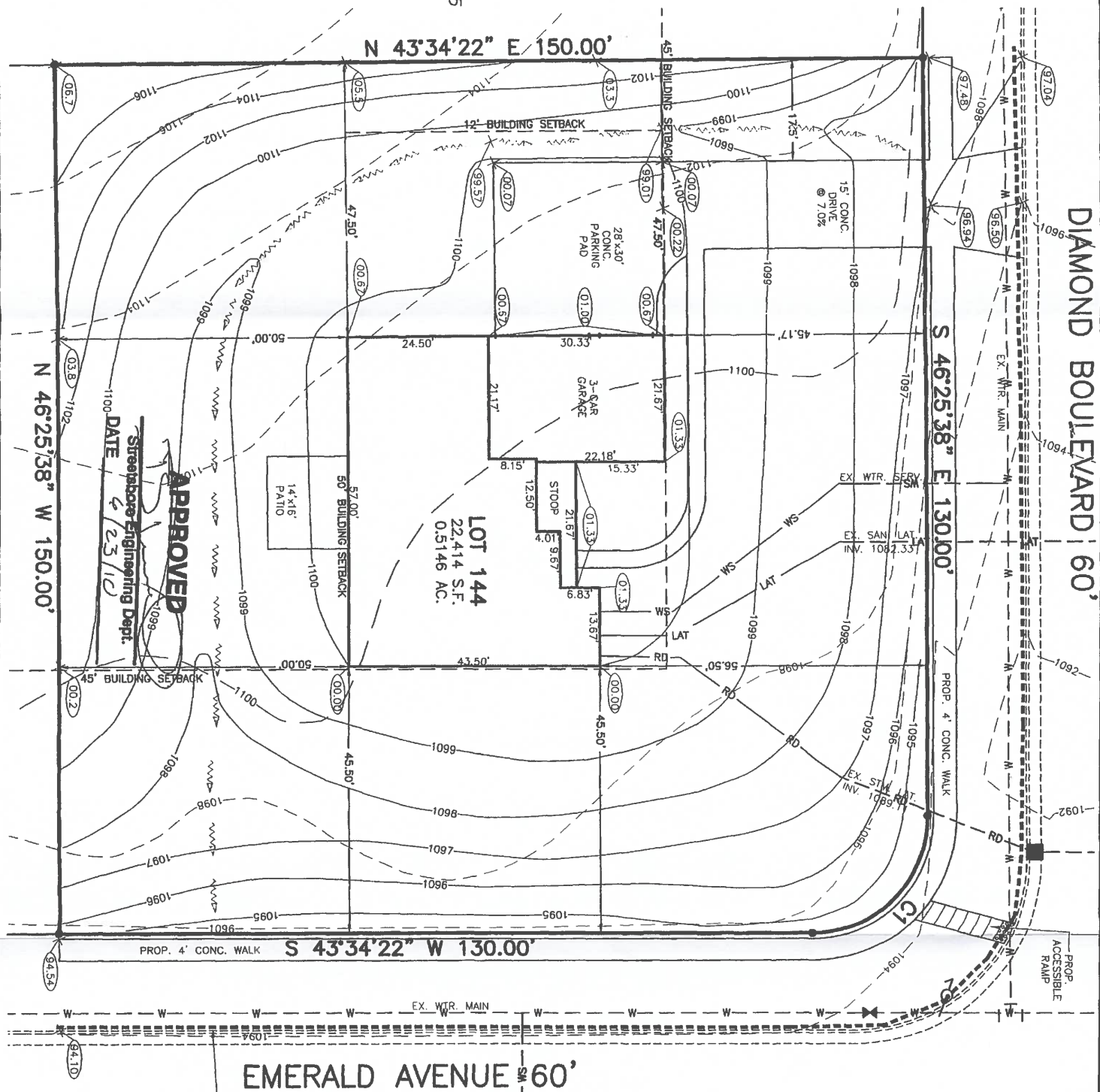
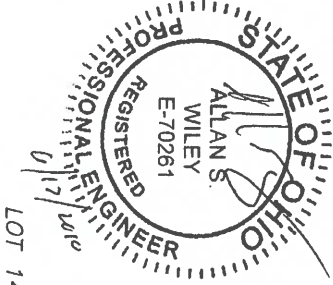
1. LATERAL INVERT ELEVATIONS AND LOCATIONS ARE APPROXIMATE. CONTRACTOR TO FIELD VERIFY ACTUAL LATERAL INVERT ELEVATION AND LOCATION PRIOR TO CONSTRUCTION. SLOPE OF LATERALS TO BE AT 1.00% MINIMUM.
2. EXISTING CONTOURS SHOWN ARE REPRESENTATIVE OF THE MAPPING. CONTRACTOR TO FIELD VERIFY THE EXISTING GRADES SHOWN ARE ACCURATE AND SHOULD NOT BE TREATED AS SUCH UNLESS OTHERWISE STATED ON THIS SITE PLAN.
3. BUILDING DIMENSIONS ARE MEASURED FROM THE OUTSIDE EDGE OF BASEMENT FOUNDATION WALL OR PROPOSED BRICK FACE IF APPLICABLE.
4. CONTRACTOR IS TO FIELD VERIFY THE DEPTH AND LOCATION OF FOUNDATION EXISTING CONTOURS UTILITIES AND PAVEMENT ARE SHOWN PER SITE IMPROVEMENT PLANS AND HAVE NOT BEEN VERIFIED.

NOTE:
 1. BUILDING MAY ALSO FRONT OFF OF DIAMOND BOULEVARD WITH THE SIDE AND REAR YARD SETBACKS ROTATED IN ORDER TO DO SO

NOTE:
 SILT FENCE MUST BE INSTALLED PRIOR TO THE START OF EARTHWORK MOVING.



| | |
|-----------------------------|---------|
| GARAGE ELEVATION | 1101.00 |
| FINISH FLOOR ELEVATION | 1103.00 |
| TOP OF WALL ELEVATION | 1102.00 |
| BOTTOM OF FOOTING ELEVATION | 1092.33 |



2 WORKING DAYS BEFORE YOU DIG
 CALL TOLL FREE 1-800-362-2764
 OHIO UTILITIES PROTECTION SERVICE

APPROVED
 Streetsboro Engineering Dept.
 DATE 4/23/10

GBC Design, Inc.
 PREPARED BY:
 8876 W. Market St.
 Akron, OH 44333-8886
 Phone 330-896-0228 Fax 330-896-5722

DATE 5/14/2010
 PROJECT No. 38064

PLOT PLAN PREPARED FOR
 D.H. MEYERS HOMES, INC.
 LOT 144, STONEGATE PHASE III
 SITUATED IN THE CITY OF STREETSBORO
 COUNTY OF PORTAGE, STATE OF OHIO

LOT 144
 22,414 S.F.
 0.5146 AC.









16x16' with 3x12' curve

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ACTIVITY

 Filters

Post a message...

Post 

May 25, 2023

To Whom It May Concern,

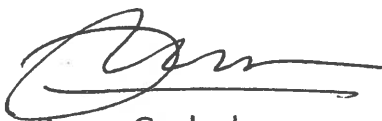
This letter is to confirm that, as the occupants of the house at 145 Sapphire Ln, Streetsboro, OH, we have no objection to the proposed deck project at the property directly behind us owned by Joseph & Charlene McKenna, 160 Diamond Blvd., Streetsboro, OH.

The deck will not be a detriment to our home or our neighborhood.

Sincerely,

A handwritten signature in black ink that reads "Deborah Gerlach". The script is cursive and fluid, with the first letter 'D' being particularly large and prominent.

Deborah Gerlach

A handwritten signature in black ink that reads "Bruce Gerlach". The signature is more stylized and compact than the one above, with a long horizontal stroke at the end.

Bruce Gerlach

**CITY OF STREETSBORO
MEMORANDUM**

TO: Board of Zoning and Building and Appeals (BZBA)

FROM: Jimmy Hoppel, AICP;
Assistant Planner

DATE: June 14, 2023

RE: Comments re: 160 Diamond Boulevard Setback Variance for June 20, 2023
Meeting

I offer the following comments for consideration by the BZBA:

Site Address: 160 Diamond Boulevard
PPN#: 35-052-10-00-084-000
Applicant(s): Charlene and Joseph McKenna
Property Owner(s): MCKENNA, JOSEPH P & CHARLENE A

The variance being requested:

The applicant is requesting a variance from Section 1127.04(b) of the zoning code. Specifically, the applicant is requesting a 19-foot variance from the required rear yard setback, where 50 feet is required, but 31 feet would be provided. The variance is to permit the addition of a deck on the rear of the principal dwelling with a total depth of 19 feet.

Project Summary:

The applicant is requesting a 19-foot rear setback variance, to permit a 31-foot rear yard setback where a 50-foot rear yard setback would be required by Code. When the house was sited, the back of the house was located on the rear setback line, providing zero (0) feet for an addition or deck off the back of the house. The applicant has indicated that although they have been the original owners of the house, that they were not involved in the design/build process of the house. The applicant is proposing the addition of a deck to the rear of their home with a total depth of 19-feet (a main deck area with depth of 16 feet and a bump out of three feet in depth). The applicant has indicated in their narrative and in coordination with staff that the intention is to provide an adequately sized outdoor gathering area in the rear of their home. The applicant has explained that there is an existing at-grade patio in the rear of their home with a small deck and set of stairs that go down to it; however, being able to replace the patio with a deck that is on the same level as the rear patio door would provide relief for residents and guests that have physical limitations.

Variance Standards:

In *Duncan v. Middlefield* the Ohio Supreme Court utilized standards for determining if a practical difficulty exists that would justify the granting of an area variance. Find below the *Duncan v. Middlefield* standards as well as standards contained in the City's Zoning Ordinance, in **bold** followed by information provided by staff for the BZBA to consider in weighing the standards and rendering their decision.

1. The property in question (will/will not) yield a reasonable return and there (can/cannot) be a beneficial use of the property without the variance;

The property exists as a single-family home and could continue the beneficial use as a single-family dwelling without the variance.

2. The variance is (substantial/insubstantial);

The rear setback variance would reduce the setback requirement from 50 feet to 31 feet, a 32% reduction of the code required amount. This is approximately a reduction of one-third of the requirement.

3. The essential character of the neighborhood (would/would not) be substantially altered (and/or) adjoining properties (would/would not) suffer a substantial detriment as a result of the variance;

The essential character of the residential area would not be substantially altered and adjoining properties would not be expected to suffer a substantial detriment as a result of the variance.

4. The variance (would/would not) adversely affect the delivery of governmental services (e.g. water, sewer, garbage, etc.);

This variance would not adversely affect the delivery of governmental services.

5. The applicant purchased the property (with/without) (actual/constructive) knowledge of the applicable zoning restriction;

Per the applicant's narrative, they were unaware of the 50-foot rear yard setback; as there was an existing at-grade patio and small set of stairs with a landing off the rear of the house. They were unaware that there was a rear setback or that by adding a deck that they would be infringing on it.

6. The applicant's predicament feasibly (can/cannot) be resolved through some method other than a variance;

Since the applicant's house is immediately adjacent to the setback, leaving zero (0) feet for any code-compliant addition or deck off the rear of the house, a variance is the only way to allow any size deck to be added to the rear of the house. The only other option is for an at-grade patio which currently exists. However, stairs that would be necessary for access to an at-grade patio from the house would also require a variance of some amount.

7. The spirit and intent behind the Zoning Code (would/would not) be observed and substantial justice (done/not done) by granting the variance;

Setbacks are intended to provide a regulated development pattern within zoning districts that ensure an adequate amount of spacing between properties/structures based on the

intended character or use of the properties. The reduction of the rear yard setback would reduce the permitted distance between the rear of the deck and the adjacent property to the rear. However, as there would still be 31-feet of separation, the spirit and intent can be observed.

8. There (are/are not) conditions peculiar to the property which are not characteristic of other nearby properties in the same zoning district;

The condition peculiar to the property is that the house was sited in such a way by the original builder that the rear of the house is immediately adjacent to the rear setback line, leaving zero (0) feet for any type of code-compliant addition or deck. It is not typical that homes are sited in such a way that there is absolutely no room for a deck or addition on the rear of the home. It should be noted that many dwellings in the R-1 District and Stonegate subdivision currently contain code-compliant decks at the rear off the rear of the home.

9. The peculiar conditions are not the result of actions of the applicant.

It is staff's understanding, per the applicant, that although they are the original home owners, they were not involved in the development and siting of the house in relation to the rear setback line.

10. The peculiar conditions would be encountered by any person who might own the property.

Any person who might own the property would be subject to the fact that the house is sited on the rear setback line, leaving no room for any type of code-compliant addition or deck.

11. The variance (has/has not) been requested solely to increase property value or provide some other financial benefit.

The variance is being requested to enhance the usability and enjoyment of the residence, and any financial benefit of the addition of the deck would be incidental.

12. The variance is the minimum one necessary to alleviate the difficulty;

The minimum size of a usable deck for patio furniture and a grill, which is wholly related to the amount of variance needed, is subjective. That being said, staff believes that the 3-foot bump out could be placed on the side of the deck, rather than extending off of the back of the deck. This would reduce the variance needed by three (3) feet, resulting in only a 16-foot variance being needed. Through coordination with staff, the applicants indicated that having a bump out on the side of the deck was one of the design options that they had considered. With that being said, the applicant chose to pursue a 19-foot variance as opposed to a 16-foot variance (with side bump out).

The BZA should weigh the above standards to determine if a practical difficulty exists that would merit the requested variance.