

10101 Montgomery Road • Montgomery, Ohio 45242 • (513) 891-2424

Board of Zoning Appeals Agenda August 27, 2024 City Hall 7:00 p.m.

- Call to Order 1.
- Roll Call 2.
- Pledge of Allegiance 3.
- Open Board of Zoning Appeals Meeting / Swearing in of Witnesses 4.
- **Guests and Residents** 5.
- **New Business** 6.

Agenda Item 1

9675 Montgomery Road - Applicant, Fastsigns of Cincinnati, on behalf of Montgomery Road Office, LLC, property owner, is requesting the following variances: 1) A variance to allow total signage of 94.8 square feet where 60 square feet is the maximum permitted per Section 151.3012(b)(2). 2) A variance to allow a wall sign to be located above the head of the second story window where it cannot be higher than the head of the second story window per Section 151.3012(b)(5). 3) A variance to allow a raceway where raceway mounting is prohibited per Section 151.3014 (n)(1)(J).

- Other Business 7.
- Approval of Minutes 8.
- Adjournment 9.



BOARD OF ZONING APPEALS 10101 Montgomery Road • Montgomery, Ohio 45242 • (513) 891-2424

Application for Variance: Fastsigns of Cincinnati

DayMark 9675 Montgomery Road

August 27, 2024 Staff Report

Applicant:

Fastsigns of Cincinnati 12125 Montgomery Road

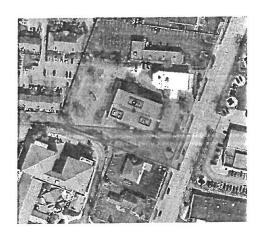
Cincinnati, Ohio 45249

Property Owner: Montgomery Road Office, LLC

2435 E. North Street Suite 1108-102

Greenville, SC 29615

Vicinity Map:



Nature of Request:

Applicant, Fastsigns of Cincinnati, on behalf of Montgomery Road Office, LLC, property owner, is requesting the following variances: 1) A variance to allow total signage of 94.8 square feet where 60 square feet is the maximum permitted per Section 151.3012(b)(2). 2) A variance to allow a wall sign to be located above the head of the second story window where it cannot be higher than the head of the second story window per Section 151.3012(b)(5). 3) A variance to allow a raceway where raceway mounting is prohibited per Section 151.3014 (n)(1)(J).



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Zoning:

The property is zoned 'GB' - General Business and currently used as offices. The properties to the north and south are also zoned 'GB' and used for retail purposes. The property to the west is zoned 'D-3' - Multi-Family Residential (Tollgate Condominiums).

Findings:

- 1. The lot contains 100' of frontage along Montgomery Road and is setback approximately 85' from the right of way.
- 2. The property is 1.746 acres.
- 3. The building was erected in 1983.
- 4. The proposed wall sign is 51.50" in height and 250" in width. Total wall sign area is 89.47 sq. ft.
- 5. The applicant is proposing signage on the existing multi-tenant ground sign of 5.33 square feet.
- 6. The proposed sign is to be located above the existing second story windows.

Variance Considerations:

Section 150.2010 allows the Board of Zoning Appeals to grant dimensional variances when the applicant can establish a practical difficulty. The City has established the following criteria for evaluating hardships:

1. Whether special conditions and circumstances exist which are peculiar to the land and/or structure involved?

The current building contains decorative metal features that are protruding from the main wall of the building, which limit the placement of the wall signage. The applicant is requesting the signage to be located just above these metal features.



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These decorative features were added in 2008 and were approved by Planning Commission on April 4, 2008 as part of an exterior remodel. These decorative screens were designed to become "green screens" to help break up the horizontalness of the building while highlighting the main entrance and softening the negative visual impact of the tile. In addition, the building sits at a slightly lower elevation than the sidewalk along Montgomery Road in front of the parking area.

The building was previously an exercise gym with an indoor running track on the second floor. The space has now been finished out as an office and there is limited access to the building's front exterior façade. Part of this tenant finish required installation of a curved wall which has little This creates difficulty with installing an internally limited access. illuminated sign without a raceway.

2. Will the property yield a reasonable rate of return if the variance is not granted?

Staff is of the opinion that there may not be a reasonable rate of return if the variance to allow the wall sign to be located above the second story windows is not granted, due to the lack of available space on the building façade for a wall sign. A majority of the businesses along this commercial corridor have both wall and ground mounted signage. In addition, a majority of the businesses have internally illuminated signs.

Staff is of the opinion that the property would yield a reasonable rate of return if the size variance is not granted. Staff believes that 60 square feet of signage is sufficient given the building placement and size.

Staff is of the opinion that a reasonable rate of return may not be granted without the illumination of the sign. There are existing structural components with the building that require the use of a raceway in order to have electric ran for illumination of the sign.

3. Is the variance substantial? Is it the minimum necessary?

The amount of the size variance is substantial, as the applicant is requesting a 58% increase in square footage. However, based on the existing window placement and lack of wall space, the applicant is requesting the minimum height necessary for the sign to be located between the roof and windows.



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The addition of a raceway is substantial as the code prohibits them. However, Staff is of the opinion it is the minimum necessary to allow for illumination of the sign due to the limited access inside the building to the exterior wall.

4. Will the character of the neighborhood be substantially altered?

Staff does not believe that the character of the surrounding neighborhood would be substantially altered by granting the variance for placing the sign above the second story windows. This area of Montgomery Road is commercial in nature with the site being surrounded by commercial uses. Staff is also of the opinion that adjoining properties would not suffer a substantial detriment as a result of the variance as the property has a sufficient amount of landscaping which screens a majority of the building from adjacent properties. In addition, the building is setback from right of way approximately 82'.

Staff does have concern that the size variance request would substantially alter the character of the neighborhood, as a majority of the businesses along Montgomery Road do not exceed 60 square feet of signage.

Staff does not believe the character of the neighborhood would be substantially altered by granting a variance for the use of a raceway, as there are a number of businesses on Montgomery Road with raceways. The prohibition of raceways was added to the Zoning Code in 2022.

Staff is also of the opinion that the multifamily residential located directly behind the property will not be negatively impacted, as the sign will not be visible.

- 5. Would this variance adversely affect the delivery of government services?

 Government services would not be affected by granting the variance.
- 6. Did the owner purchase the property with the knowledge of the zoning restraint?



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Based on the information received from the applicant, staff is unaware if the current owner purchased the property with the knowledge of the zoning restriction.

7. Whether special conditions exist as a result of the actions of the owner?

The decorative metal screens attached to the façade of the building does make the placement of wall signage restrictive. However, this was completed recently completed in 2008 as part of an exterior remodel which was approved by Planning Commission. The challenges associated with the installation of electric are not as a result of actions of the owner; however, are more of a result of the changes in the use of the building.

8. Whether the owner's predicament can be feasibly obviated through some other method?

The applicant could choose to only utilize a ground mounted sign only. However, it is typical for a commercial business to have both a ground mounted sign, as well as a wall sign. The placement of the existing windows significantly impacts the availability of wall space for signage. The area above the windows is the only horizontal space available located closest to Montgomery Road. However, Staff does believe the total signage variance can be feasibly obviated by reducing the wall signage size.

In regard to the raceway, the applicant has indicated that the predicament of installing electric to the sign could not be feasibly obviated due to the existing layout of the interior office space and lack of access to the exterior wall.

9. Would the spirit and intent behind the zoning requirement be observed and substantial justice done by granting the variance?

The intent of the requirement for signage to not exceed the head of the second story window is to ensure consistent signage placement on buildings throughout the City and to encourage visibility by not only vehicles, but pedestrians as well. Staff is of the opinion that the spirit and intent behind the zoning requirement will be observed, and substantial justice done by granting the variance above the second story window, as the proposed placement will be visible to pedestrians, as well as vehicles.



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The building is placed at a lower elevation than the road; therefore, the sign will not appear to be inconsistent with surrounding signs.

With regard to the size variance request, Staff is of the opinion that the spirit and intent of the zoning code would not be observed, as the applicant has not established a hardship which would require a larger sign. The intent of the maximum 60 square foot signage requirement was to ensure an appropriate amount of signage, while providing the business with enough advertisement on the building and ground. There are many businesses along Montgomery Road that adhere to the 60 square foot maximum signage requirement.

Staff is of the opinion that the spirit and intent of the prohibition of raceways would not be observed, as the applicant is proposing a raceway for the entire wall sign.

10. Would granting the variance confer on the applicant any special privilege that is denied to other properties in this district?

Placement Variance

Staff does not believe that granting the variance to allow the sign above the second story window would provide the applicant with any special privilege that is denied to other structures in the district. The applicant is attempting to work with the existing architectural features of the building, by proposing to locate the sign on the open wall space closest to Montgomery Road.

Previously, the Zoning Code had an overall maximum height requirement for signage of 20'. During the last code rewrite, this was modified to limit wall sign height to head of the second story window. While the code section was recently changed, there have been variances to allow signs to be higher than 20' from grade in the past along Montgomery Road, including the existing wall sign on this building to the south. American Heritage Insurance Group was granted a variance to allow 57.55 square feet of wall signage to be located 23'4" above grade, where 20' was the maximum height permitted.

In addition, a variance at 9689 Montgomery Road was approved for a wall sign to be located higher than the head of the second story window in November of 2022.



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Size Variance

Staff believes that granting the size variance would provide the applicant with a special privilege that is denied to other structures in the district. The Montgomery corridor is comprised of a number of commercial businesses that adhere to the zoning requirements for sign size.

There have been two previously approved variance requests along this stretch of Montgomery Road. The former Steak and Shake was granted an additional 4 square feet of signage in 2003. The Chevrolet dealership was granted an additional 9 square feet of signage in 2015. The lot has 423' of road frontage.

Raceway Variance

The prohibition of raceways was added to the Zoning Code in 2022, and this is the first variance request to permit a raceway. At this time, many businesses utilize a raceway to provide electric to internally illuminated signs. However, the applicants are working with an existing building that currently does not have electric running to this location and the internal layout of the building does not lend itself to easy access to the exterior.

Staff Comments and Recommendations

Staff believes that the variance request to allow signage above the head of the second story window would be justified due to the limited availability of wall space as a result of the large existing windows, as well as the elevation of the building being lower than that of Montgomery Road, therefore, visually minimizing the height of the sign. Staff is of the opinion that the height and scale of the sign will maintain cohesiveness of wall signage along Montgomery Road and will not negatively impact surrounding properties. In addition, the applicant's proposal to have the sign internally illuminated would be consistent with existing wall signage along this section of Montgomery Road.

Staff does have concern with the request to allow of an additional 34.8 square feet of signage, as a practical difficulty has not been established. The building has clear visibility from Montgomery Road and Staff is of the opinion that 60 square feet of signage is sufficient and in accordance with signage for businesses in the area.



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While the updated Zoning Code prohibits the use of a raceway, Staff is of the opinion that this building's layout and change of use over the years, has resulted in an inability to easily accommodate electric to an internally illuminated sign without the use of a raceway.

Approving a variance to allow for a wall sign to be located higher than the head of the second story window in accordance with the drawing submitted could be justified by criteria #1, 2, 4, 5, 7, 8, 9, and 10.

Approving a variance to allow 94.8 square feet of total signage where 60 square feet is the maximum permitted could be justified by criteria # 5 and 7.

Approving a variance to allow a raceway where raceway mounting is prohibited could be justified by criteria #1, 2, 4, 5, 7, 8, 9, and 10.



APPLICATION FORM

Meeting (Circle): Board of Zoning Appeals Planning Commiss Commission	sion Landmarks
Project Address (Location):	
Project Name (if applicable):	
Auditors Parcel Number:	
Gross Acres: Lots/Units Commercial	Square Footage
Additional Information:	
PROPERTY OWNER(S) Montgomery Road Office US Contact	Joey Weinel
Address 2435 ENorth St., Stell 8-102 Phone:	864-905-8917
City <u>Greenville</u> State <u>SC</u> Z	Zip 29615
E-mail address joey@dualcityinvestments.com	M
APPLICANT Contact	
Address Phone:	
City State	Zip
E-mail address	
I certify that I am the applicant and that the information submitted with this application is true are belief. I understand the City is not responsible for inaccuracies in information presented, and that application may cause the application to be rejected. I further certify that I am the owner or involved in this application, or the lessee or agent fully authorized by the owner to make this substitution.	purchaser (or option holder) of the property
Property Owner Signature	FOR DEPARTMENT USE
	Meeting Date: 8/27/24
Print Name July Weine Date 7/24/24	Total Fee: 15300
Date 7/24/24	Date Received:
,	Received By:



CONSENT OF OWNER(S) TO INSPECT PREMISES

To: City of Montgomery Board of Zoning Appeals Members and Staff City Hall

10101 Montgomery Road Montgomery, Ohio 45242

Re: Review Subject Site

Dear Members and Staff:

As owner(s) of the property located at 9675 Montgomery Rd (incinnati, of 452 we hereby grant permission to Members of the Board of Zoning Appeals and City of Montgomery Staff to enter the property for visual inspection of the exterior premises. The purpose of said inspection is to review the existing conditions of the subject site as they relate to the application as filed to the Board of Zoning Appeals.

Property Owner(s) Signature	_
Print Name Jay Wrine 1	_
Date	

Board of Zoning Appeals Members:

Mary Jo Byrnes

Tom Molloy

Jade Stewart

Steve Uckotter

Richard White



Consideration for Approval of Dimensional Variances

The following criteria will be used, along with other testimony provided at the public hearing to determine whether a practical difficulty exists that warrants a variance from the Zoning Code. Applicants should be prepared to respond to these issues.

1.	Whether special conditions and circumstances exist which are peculiar to the land or structure and which are not applicable to other lands or structures in the same zoning district. Examples are narrowness, shallowness or steepness of the lot, or adjacency to non-conforming uses:
	HEIGHT ON BILDING (TOWING ROLL), ALCON THE INSTITUTE LOCATION,
2.	Will the property yield a reasonable rate of return if the variance is not granted?
	UNIKNOWA!
3.	Is the variance substantial? Is it the minimum necessary?
4.	Will the character of the neighborhood be substantially altered?
	N_{c} .
5.	Would this variance adversely affect the delivery of government services? Deco Net APRI



6.	Did the owner purchase the property with the knowledge of the zoning restraint?
	DOIN NOT HAPPLY
7.	Whether special conditions exist as a result of the actions of the owner?
	Das Net APPLY
8.	Whether the owner's predicament can be feasibly obviated through some other method?
	No
9.	Would the spirit and intent behind the zoning requirement be observed and substantial justice done by granting the variance?
	Ver.
10.	Would granting the variance confer on the applicant any special privilege that is denied to other properties in this district?
	Nv.

Melissa,

DayMark will require a raceway due to limited access inside the front wall of their building. The building was originally built as an exercise gym with an indoor curved running track on the second floor. DayMark has finished this space, creating offices along the straight sides of the old running track and finishing the curved end with curved drywall at a great expense. The curved wall has very limited access through it to the inside of the front exterior building facade. There is a way to mount a raceway to the building and bring an electrical conduit to one point on the raceway without being an eyesore. If individual letters were mounted to the facade then power would need to be run through the wall to each letter - likely eight penetrations which are not accessible inside the building.

Please let me know if you have any other questions,

Charles Mann

Client Preferred Options



These Board of Zoning Minutes are a draft. They do not represent the official record of proceedings until formally adopted by the Board of Zoning Appeals.

Formal adoption is noted by signature of the Clerk within the Minutes.

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CITY OF MONTGOMERY BOARD OF ZONING APPEALS REGULAR MEETING CITY HALL · 10101 MONTGOMERY ROAD · MONTGOMERY, OH 45242

July 23, 2024

PRESENT STAFF **GUESTS & RESIDENTS** Melissa Hays, City Planner Greg & Kathy Munafo Frame House Gallery Amy Smith, Acting Secretary 7836 Cooper Road, 45242 BOARD MEMBERS PRESENT Ruth Sproull Richard White, Vice-Chairman 7786 Cooper Rd., 45242 Mark Berliant Tom Molloy Eric Roth Mike Wentz Steve Uckotter 8220 Shawnee Road, 45243 MEMBERS NOT PRESENT Mary Jo Byrnes, Chairman Jade Stewart

Acting Chairman White called the meeting to order at 7:00 p.m.

Ms. Hays welcomed Amy Smith, as acting secretary this evening, noting that Amy works as Community Development Specialist for the City.

Roll Call

The roll was called and showed the following responses / attendance:

PRESENT: Mr. Uckotter, Mr. Roth, Acting Chairman White, Mr. Berliant, Mr. Molloy (5)

ABSENT: Ms. Stewart, Ms. Byrnes (2)

Pledge of Allegiance

All of those in attendance stood and recited the Pledge of Allegiance.

Acting Chairman White gave a brief explanation of tonight's proceedings: The Board will hear any comments, suggestions or questions for any item not on tonight's agenda. He stated that tonight the Board will hear testimony concerning the one item on tonight's agenda, first in the public hearing, and then in the business session. All persons speaking will please go to the podium and state their name and address, for the record. A public hearing is a collection of testimony from City Staff, the applicant, and anyone wishing to comment on the case; members

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Board of Zoning Appeals Meeting

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- of the Board may pose questions to Staff. Next, the applicant may provide testimony and 29
- respond to any questions from the Board or Staff. Then, any member of the public may offer 30
- comments or questions. At the completion of the public hearing, the Board will adjourn and 31
- open the business session. The Board will not take any further public comment during this 32
- portion of the meeting, unless clarification is needed by a Board member. At the conclusion of 33
- the business session, the Board will vote on the applicant's request. At least four members of the 34
- Board must vote yes for a variance to be approved. The decision of the Board is final. 35
- Acting Chairman White noted that anyone not agreeing with the Board's decision has the option 36 of appealing to Hamilton County Common Pleas Court, under the procedures established by that 37

38 court. 39

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- Acting Chairman White asked all guests to turn off their cell phones.
- 41 He asked that anyone planning to speak to the Board please stand to be sworn in (which included 42 the applicant). Acting Chairman White swore in everyone planning to speak. 43

Guests and Residents

Acting Chairman White asked if there were any guests or residents who wished to speak about items that were not on the agenda. There were none.

Old Business

There was no old business to discuss.

52 **New Business**

A request for a variance from Eric Hines and Mike Wentz, on behalf of Maria Versluis, 53 property owner of 7816 Cooper Road, to allow one parking space, where nine spaces are 54 required, per Schedule 151.3204 and Schedule 151.3207(A)(1) of the Montgomery Zoning 55 Code.

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- Staff Report
- Ms. Hays reviewed the Staff Report dated July 23, 2024, "Application for Variance: Village 59 Hall. Landmark Property, 7816 Cooper Road." 60

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She showed drawings on the wide screen for all to see, to provide more understanding of the Staff Report. She indicated that there had been no calls or emails received regarding this application.

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Ms. Hays asked for any questions.

- Mr. Uckotter asked if the nine parking spaces were at a 50% reduction. Ms. Hays confirmed, 68 noting that it was based on square footage. She stated that she configured this, on the higher side 69 - which included the outdoor seating, so it would be about 1200 square feet. Mr. Uckotter asked 70 if the applicant was prohibited from expanding the building. Ms. Hays felt it would be extremely 71
- difficult to do that. She stated that there were some landmark properties with additions, but not 72
- 73 many.

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Mr. Molloy asked if the parking space calculation was based on usable space or leasable space.

Ms. Hays noted that it was based on 1,000 square feet of gross usable area.

Mr. Molloy noted that Ms. Hays had referred to this location as Outer Olde Montgomery, but later referenced it as the Historic District. He asked for the differentiation between the two. Ms. Hays noted that the actual zoning classification was the Outer Olde Montgomery District; she called it Olde Montgomery, as a reference to downtown. She was not sure where the actual dividing line was between Olde Montgomery and Outer Olde Montgomery.

Mr. Molloy asked if it would be possible to have a review of all of our Districts and their boundary lines (on top of a city map) at a future meeting. Ms. Hays agreed to put this topic on a future agenda. Ms. Hays stated that the Clerk of Council had also offered some training topics to share with the Boards of Commission, so she will provide the zoning district's review prior to that training.

Mr. Molloy referred to the previously approved variances that were cited in the Staff Report. He asked what they were reduced from and to. He asked if any of them were of a percentage basis as large as this application -- an 89% reduction. Ms. Hays was not sure of the exact square footages, pointing out that a similar one would be the one just approved for the northern lot (formerly Don's Auto Building). This was for this same applicant, at the May 28, 2024 Board of Zoning Appeals meeting,

(Mr. Molloy was not present at that meeting), which allowed for an addition to provide zero (0) on-site parking spaces, where a minimum of 10 spaces was required in the Outer Old Montgomery District.

Mr. Molloy noted that Montgomery had a lot of businesses in the Old Montgomery area that had zero parking spaces. He asked if they would need to obtain variances for those businesses, and rely totally upon public parking. Ms. Hays stated that would be only if they changed uses, or if the parking calculation increased.

Mr. Berliant noted that the application called for allowing one parking space, where nine were required. In the application submitted, and in the Consideration Document, both of them say that they are proposing a variance from four spaces to two spaces. Ms. Hays stated that the applicants had originally modified the site plan and were going to lay out tandem parking spaces (which Montgomery does not permit); and if they did that, they would have needed a second variance for the setback for the parking spaces. Ms. Hays stated that the applicant changed their plans, on Staff's recommendation, and did not update those two documents. So, those statements are not accurate about changing four spaces to two spaces. Staff stated that she worked with them on developing a new plan that would minimize the number of variances. Mr. Berliant asked if the application should then be modified. Ms. Hays stated that an updated application is not required, as the public advertisement was correct.

Acting Chairman White asked if the applicant wished to speak.

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Mike Wentz, 8220 Shawnee Run Road, Cincinnati OH 45243 stated that he is a long-time 119

- business owner in the City of Montgomery. His business partner, for these two buildings, Eric 120
- Hines, is a long-time resident of Montgomery. With the purchase of 9393 Shelley Lane and 121
- Don's Auto Building, they realized that renovating both of these properties at the same time 122
- would be advantageous for them, as well as the City. He stated that they certainly would not 123 have done that without the amount of adjacent city parking available for both of these projects.
- 124 They understood that this was an historic building, and were trying to lead into that and create a 125
- space that was enjoyable, but that also promoted the historic nature of the building itself. The 126
- four parking spaces that were between the two buildings were not very safe or usable. They felt
- 127 that to create a destination for this craft drinkery, they wanted to add some outdoor seating.
- 128 which initiated the need for the parking variance. He asked if there were any questions. 129

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Mr. Molloy asked if there would also be food available. Mr. Wentz stated that the building is so small that they have no room for a kitchen. The Ohio Board of Liquor Control required you to serve some type of food, so they will offer simple charcuterie types of foods, but it will not be a restaurant.

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Mr. Berliant asked if they have acquired their liquor license. Mr. Wentz stated that they have applied for it, but it is actually tied to the property. He explained that they were not the owners, so it will not be released until they are the owners. Mr. Wentz noted that they were still taking the necessary steps, and were confident that it will work out.

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- Mr. Berliant asked if the licensing agency had requirements regarding space and parking. 141
- Mr. Wentz stated that they did not. He has worked on several restaurants prior to this, and 142
- typically there were requirements for fencing when alcohol was being consumed outside. 143
- He believed that may not be the case, due to the new DORA (Designated Outdoor Refreshment 144
- Area) exemptions; but he was not sure. He didn't feel that their design would change 145
- dramatically if they were required to put a small gate at the front of the rear outdoor space. 146

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Mr. Berliant asked if there were any other contingencies that he was facing, apart from this 148 Board's approval. Mr. Wentz stated that there were none, noting that the Landmarks 149 Commission gave their approval at the July 10, 2024 meeting. 150

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Ms. Hays appreciated Mr. Wentz's comment about DORA, and pointed out that this property was located within the DORA designation, which meant that their guests could walk around specific downtown streets with an open drink, during particular hours.

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Mr. Berliant asked if there were restrictions on hours of operation. Ms. Hays stated that there 156 may be different types of liquor licenses that were connected to hours, but the City did not 157 regulate times or days. She pointed out that there were noise requirements, so if the outdoor 158 seating became too noisy, it would be addressed. 159

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Mr. Molloy asked about lighting back there, with regard to the residential area, and how it would 161 affect them. Ms. Hays stated that their proposed lighting was string lighting, nothing bright. 162

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Board of Zoning Appeals Meeting

July 23, 2024

- There were no more questions for the applicant from the Board. 164
- Acting Chairman White asked if any guests or residents had comments. There were none. 166 167

168 Adjournment

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- Mr. Uckotter moved to close the public hearing. 169
- Mr. Molloy seconded the motion. 170
- The public hearing adjourned at 7:28p.m. 171
- Acting Chairman White opened the business session at 7:28p.m. 173

Business Session

- 175 A request for a variance from Eric Hines and Mike Wentz, on behalf of Maria Versluis, 176 property owner of 7816 Cooper Road, to allow one parking space, where nine spaces are 177
- required, per Schedule 151.3204 and Schedule 151.3207(A)(1) of the Montgomery Zoning 178
- Code. 179
- Acting Chairman White asked for comments from the Board. 181
- Mr. Uckotter stated that this was precisely the reason that City Council and previous councils 183
- had developed all of the public parking, with room for further expansion to allow for parking 184
- for those businesses that can't have proper parking. 185
- Mr. Molloy agreed, noting that this would not be setting precedent, as we had many previous 187 examples. He was in favor of this application. 188
- 189 190 Other members agreed.
- 191 Mr. Molloy moved to approve the request for a variance from Eric Hines and Mike Wentz, of 192
- 7313 Remington Road, Montgomery, Ohio 45242, for the property located at 7816 Cooper 193
- Road, Montgomery, Ohio 45242 (owned by Maria Versluis of 355 South Ocean Drive, 194
- Hollywood, Florida 33019), to allow one on-site parking space, where a minimum of nine 195
- spaces are required, per Schedule 151.3204 and Schedule 151.3207 of the Montgomery 196
- Zoning Code, as described in the City of Montgomery Staff Report dated July 23, 2024. 197 198
- This approval is in accordance with the site plan dated July 9, 2024. 199
- 200 This approval is justified by criteria # 1, 2, 4, 5, 8, 9, & 10, as outlined in Montgomery 201 Codified Ordinance Chapter 150.2010 (d) for granting variances. 202
- Mr. Uckotter seconded the motion. 204

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Board of Zoning Appeals Meeting

July 23, 2024

207 The roll was called and showed the following vote:

209	AYE: Mr. Uckotter, Mr. Roth, Mr. Berliant, Mr. Molloy, Acting Chairman White	(5)
210	NAY:	(0)
211	ABSENT: Ms. Stewart, Ms. Byrnes	(2)
212	ARSTAINED:	(0)

214 This motion is approved.

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216 Adjournment

- 217 Mr. Uckotter moved to close the business session.
- 218 Mr. Berliant seconded the motion.
- The business session adjourned at 7:31p.m.

Acting Chairman White opened the public hearing at 7:31p.m

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Other Business

There was no other business to report.

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Minutes

Ms. Hays requested that we approve the past minutes at the next meeting. All members agreed.

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Mr. Berliant asked about the June 25, 2024 draft of minutes, referring to Line 476, he read...

"Ms. Stewart wanted to correct a comment stated earlier by Mr. Berliant, our Board member who was new, and not yet familiar with all of the rules. The comment was made that if the neighbors are for it, then we should approve it. And then it was noted by a guest, that if the neighbors aren't for it, then you don't approve it. This is not accurate, in fact, ironically there are people in this room, on another matter, that would disagree with that. She pointed out that the next hearing was previously an application that was one of the most contested by neighbors than we have ever had, and yet it was approved. She noted that neighbors' comments weigh very heavily with the Board, but it is not the primary factor, and the Board does not base their entire decision on that."

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Mr. Berliant asked for guidance on this matter. If we have a complaint, and 10 neighbors came in and all said no, would we still possibly approve it? Mr. Uckotter replied that absolutely we could – and we have. Mr. Molloy explained that you have to put aside the comments and try to understand why the neighbors were against it. There can be personality differences that interfere and have nothing to do with the application. Mr. Berliant felt that they might be concerned about the values of their homes. Mr. Molloy agreed, but stated that our job was to look at it, determine if there was a practical difficulty or if it would set a precedent. We need to go through the criteria, and if the application checks all the boxes in the affirmative, then regardless of anyone's opinions, we need to follow the guidelines.

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Board of Zoning Appeals Meeting

July 23, 2024

Mr. Uckotter stated that many times it is the other way around. The applicant and the guests are for the application. He gave an example from the past, where people / neighbors actually cried at the meeting because it was not approved.

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Ms. Hays reminded all that the variance runs with the land itself. Neighbors can change, and especially when you divert into people's opinions of things, as opposed to the criteria guidelines. She explained that the public was always notified of a variance, and a large part of the reason for this was to give Staff a chance to learn of things that we may not be aware of. She visits the site, she reviews all, but there may be something that she is missing, and perhaps a neighbor will bring it to light.

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Ms. Hays noted that the key factor is that there must be a practical difficulty, and then to determine if it was self-imposed, or not. This Board's judgment takes precedence over the neighbors' opinions. Ms. Hays stated that she has worked in other states, and it makes it easier because Ohio provides the criteria to base your decision on. Many states don't have criteria guidelines. These factors are always stated in the Staff Report, for the Board to review. The criteria provides the guide for you to use to justify your decision. Even personally you may not agree, but the criteria gives you the evidence to approve or not.

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There was more discussion and several examples cited.

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Adjournment

Mr. Molloy moved to adjourn. Mr. Uckotter seconded the motion.

The meeting adjourned at 7:41 p.m. 274

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280 Karen Bouldin, Clerk

Richard White, Chairman, Pro Tem

Date

281 282 /ksb

CITY OF MONTGOMERY BOARD OF ZONING APPEALS REGULAR MEETING CITY HALL · 10101 MONTGOMERY ROAD · MONTGOMERY, OH 45242

June 25, 2024

PRESENT **STAFF GUESTS & RESIDENTS** Melissa Hays, City Planner Debra Applebaum Al Sabato

7976 Cooper Rd., 45242

Montgomery, OH 45249

Alan & Diane Schulman

9011 Old Creek Trail, 45249 8821 Weller Road, 45249 **Martin Simon** Dick Frishkorn 230 Vintage Club Drive #107. 7954 Cooper Rd., 45242

Matt Stanley Tom & Sharon Hattersley Legendary Homes 7967 Cooper Rd., 45242 Re: 7933 Cooper Rd., 45242

Matt Tedford & Joshua Kirk Fran Lerner Renaissance Home Investments 7930 Cooper Rd., 45242 Re: 9004 Old Creek Trail, 45249

Dan Thomas

Marisa & Jed Phillips 8996 Old Creek Trail, 45249 7951 Cooper Rd., 45242

9000 Legendary Pass 45249

Abigail & Lance Busdeker

Sam Presnell & Lynn 7975 Cooper Rd, 45242

Karen Bouldin, Secretary BOARD MEMBERS PRESENT Mary Jo Byrnes, Chairman Richard White, Vice-Chairman Mark Berliant Eric Roth (joined at 7:35pm) Jade Stewart Steve Uckotter MEMBERS NOT PRESENT Tom Molloy

Chairman Byrnes called the meeting to order at 7:05 p.m.

Roll Call

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16 17 18 The roll was called and showed the following responses / attendance:

PRESENT: Mr. Roth, Mr. Uckotter, Mr. White, Mr. Berliant, Ms. Stewart, Chairman Byrnes

ABSENT: Mr. Molloy, (Mr. Roth joined at 7:35pm)

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Board of Zoning Appeals Meeting

June 25, 2024

Pledge of Allegiance

All of those in attendance stood and recited the Pledge of Allegiance.

Chairman Byrnes gave a brief explanation of tonight's proceedings: She stated that tonight the Board will be conducting three public hearings. A public hearing is a collection of testimony from City Staff, the applicant, and anyone wishing to comment on the case. All discussions by the Board of Zoning Appeals and all decisions will take place within the business session of this meeting, which immediately follows the public hearing. Everyone is welcome to stay for the business session of the meeting, however, the Board will not take any further public comment during the portion of the meeting, unless clarification is needed by a Board member. Chairman Byrnes noted that anyone not agreeing with the Board's decision has the option of appealing to Hamilton County Common Pleas Court, under the procedures established by that court.

She asked all guests to turn off their cell phones.

Chairman Byrnes asked that anyone planning to speak to the Board please stand to be sworn in (which includes the applicant). Chairman Byrnes swore in everyone planning to speak.

Guests and Residents

Chairman Byrnes asked if there were any guests or residents who wished to speak about items that were not on the agenda. There were none.

Ms. Stewart recused herself from this application, as she knew the applicant. Ms. Stewart removed herself from the dais and sat in the audience. Chairman Byrnes noted that, with only 5 members presiding, a quorum/majority of 4 Board members must agree on the same final decision for this application, as there are normally 7 Board members.

New Business

A request for a variance from property owners, Abigail and Lance Busdeker, 8821 Weller Road, Montgomery, OH 45242 to allow for an accessory parking area to have a setback of 13.2 feet from the front property line, where 25 feet is required, per Schedule 151.1009 (B) of the Montgomery Zoning Code. A second variance is requested to allow the expansion of the legal non-conforming driveway, 20 feet, 3 inches by 16 feet, to have a setback of .2 feet, where 5 feet is required, per Schedule 151. 1009 (B) of the Montgomery Zoning Code.

Staff Report

Ms. Hays reviewed the Staff Report dated June 25, 2024, "Application for Variance: Abigail and Lance Busdeker".

She showed drawings on the wide screen for all to see, to provide more understanding of the Staff Report. She indicated that three letters of support were received regarding this application – the correspondence was included in their packets.

Ms. Hays asked for any questions.

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Board of Zoning Appeals Meeting

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Mr. Uckotter asked about the big row of trees —if the City owned the trees, and if they were responsible for maintaining them. He could see the lot line was pretty far up in the yard. Ms. Hays stated that the homeowner would maintain them; however, occasionally the City may assist. The homeowner would have the right to cut down the trees and would not need permission from the City to do so.

He asked if the applicant was permitted to install a 10 foot driveway, if they wished. Ms. Hays confirmed.

Mr. Berliant asked for clarification on the Staff report, page 7, which stated ... "however, there are 6 homes located on this block, and 3 of the 6 have legal, non-conforming driveway setbacks." Ms. Hays stated that they were similar to this application, where the existing driveway is closer to the side property line, than what is permitted today. They are essentially grandfathered in.

Chairman Byrnes asked if the applicant wished to speak.

Abigail Busdeker, 8812 Weller Road, Montgomery, OH 45249 stated that they have lived in Montgomery since 2012, and are highly involved in the community. She explained that the purpose for this application was strictly for safety -- for her family, and for those who visit them.

Lance Busdeker, 8812 Weller Road, Montgomery, OH 45249 referred to the tree line on the wide screen. Staff showed several photos on the wide screen that the applicant had provided. He showed how cars are blinded by the tree line, when they back out of their driveway onto Weller Road. He showed other photos, and the difficulty involved in backing out of their driveway safely.

Regarding the lack of parking, he noted that they have a turnaround pad, but that is not where they will be parking. There is not enough room to back out of the garage and pull out, you have to back out into the neighbor's yard. He pointed out that each of their neighbors (to the north, the south, and behind them) have sent an email, supporting this application.

Abigail stated that they did look into a circle drive, and wondered if it would be better. She pointed out that it was very cost prohibitive, compared to this plan. More importantly, it would go right over their waterline. If they ever had changes to make or fix with the waterline, they would need to pull up all of the concrete.

She stated that they looked at all options for this plan – the landscaping, etc. She noted that they wanted this to look good for the community, and also work well for her family.

Chairman Byrnes asked if there were any questions for the applicant.

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- Mr. Uckotter stated that yesterday afternoon, he had the privilege of backing out of their 107
- driveway, as he had made a site visit. He had quite a time, and also did not feel terribly safe. 108
- Chairman Byrnes and Mr. White both did the same, and agreed with Mr. Uckotter. 109

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Chairman Byrnes asked if any guests or residents had comments. There were none. 111

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- 113 Adjournment
- Mr. Uckotter moved to close the public hearing. 114
- Mr. Berliant seconded the motion. 115
- The public hearing adjourned at 7:27p.m. 116

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Chairman Byrnes opened the business session at 7:27p.m. 118

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- Business Session (1) 120
- A request for a variance from property owners, Abigail and Lance Busdeker, 8821 Weller 121
- Road, Montgomery, OH 45242 to allow for an accessory parking area to have a setback of 122
- 13.2 feet from the front property line, where 25 feet is required, per Schedule 151.1009 (B) 123
- of the Montgomery Zoning Code. A second variance is requested to allow the expansion of 124
- the legal non-conforming driveway, 20 feet, 3 inches by 16 feet, to have a setback of .2 feet, 125 where 5 feet is required, per Schedule 151. 1009 (B) of the Montgomery Zoning Code. 126

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Chairman Byrnes asked for comments from the Board. 128

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Mr. White was in agreement with this variance. 130

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- Mr. Uckotter was in favor of the first variance (the parking pad). He was not in favor of the 132 second variance, as he felt they could meet the setback requirement; he preferred not to extend 133
- non-conforming situations: 134

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Chairman Byrnes asked Staff about the previous denials we had on other similar cases. There 136 was some discussion about those cases. 137

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Chairman Byrnes agreed with the first variance, and so did Mr. Berliant. Mr. Berliant agreed, 139 stating that if the neighbors were in favor, then the Board should be, also. 140

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Chairman Byrnes stated that perhaps this was an opportunity to set the bar for a different 142 approach to these situations. 143

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Mr. Berliant felt that there was clearly a practical difficulty. 145

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- Mr. Uckotter agreed that there was a practical difficulty on the first variance, but not one for the 147 second variance. He felt that the applicant could have 2 parking spaces, and still meet the 148
- setback requirement. He stated that it was a want, versus a need and there was another way to 149
- solve the problem, within the zoning requirements. 150

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Ms. Hays stated that the house was set back approximately 24 feet, and if you subtracted 5 feet 152 for the setback, he would still have a 19 foot width. She pointed out that a parking spot was 9 153

feet wide, so you could still meet the setback. She deferred to the applicant.

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Abigail Busdeker stated that aesthetically, it would be best to keep the concrete straight, instead 156 of having to trim the concrete in. Their landscaper suggested this. She stated that they just 157 wanted to extend their driveway from where it currently is, further back. She noted that they 158 would like to be able to have more parking for guests. 159

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Lance Busdeker pointed out on the wide screen, showing that the chimney is just to the right of the driveway, and if you would go five feet over, it would abut to the house, and look aesthetically much better.

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Ms. Hays asked if the applicant planned to park 2 vehicles there. Mr. Busdeker replied that one vehicle would be parked there. He admitted that they would rather have 2, but it would be very tight with 2. They would have 2 cars in the garage and 2 cars outside (their children's cars). They don't want to have fulltime parking in the front of the house because of the view and safety. The goal is to have the driveway large enough for 2 cars.

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There was more discussion among the Board about the second variance.

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Chairman Byrnes was in favor of this variance, and felt that they had a need. She pointed out that times have changed considerably since these homes were built. She pointed out that since Mr. Roth has not yet joined, and Ms. Stewart has been recused, there must be a unanimous approval vote of 4 Board Members.

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Mr. Uckotter moved to approve the request for a variance from property owners, Abigail and Lance Busdeker, 8821 Weller Road, Montgomery, OH 45242 to allow for an accessory parking area to have a setback of 13.2 feet from the front property line, where 25 feet is required, per Schedule 151.1009 (B) of the Montgomery Zoning Code, as described in the City of Montgomery Staff Report dated June 25, 2024.

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This approval is justified by criteria # 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, as outlined in Montgomery Codified Ordinance Chapter 150.2010 (d) for granting variances.

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Mr. White seconded the motion.

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The roll was called and showed the following vote: 189

190		
191	AYE: Mr. Berliant, Mr. Uckotter, Mr. White, Chairman Byrnes	(4)
192	NAY:	(0)
193	ABSENT: Mr. Roth, Mr. Molloy	(2)
194	ABSTAINED: Ms. Stewart	(1)
105		

195 196

This motion is approved.

These Board of Zoning Minutes are a draft. They do not represent the official record of proceedings until formally adopted by the Board of Zoning Appeals.

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Board of Zoning Appeals Meeting

June 25, 2024

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198		7	
199	Mr. Uckotter moved to approve the request for a variance from property owners, Abigail an	ıd	
200	Lance Busdeker, 8821 Weller Road, Montgomery, OH 45242 to allow an expansion of the		
201	legal non-conforming driveway (20 feet, 3 inches by 16 feet), to have a setback of .2 feet from	Эт	
202	the side lot line, where 5 feet is required, per Schedule 151. 1009 (B) of the Montgomery		
203	Zoning Code, as described in the City of Montgomery Staff Report, dated June 25, 2024.		
204			
205	This approval is justified by criteria # # 1, 4, 5, 6, 7, and 9, as outlined in Montgomery		
206	Codified Ordinance Chapter 150.2010 (d) for granting variances.		
207			
208	Mr. Berliant seconded the motion.		
209			
210	The roll was called and showed the following vote:		
211			
212	AYE: Mr. White, Mr. Berliant, Mr. Uckotter, Chairman Byrnes	(4)	
213	NAY:	(0)	
214	ABSENT: Mr. Roth, Mr. Molloy	(2)	
215	ABSTAINED: Ms. Stewart	(1)	
216			
217	This motion is approved.		
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220	Adjournment		
221	Mr. White moved to close the business session.		
222	Mr. Berliant seconded the motion.		
223	The business session adjourned at 7:35p.m.		
224			
225	Chairman Byrnes opened the public hearing at 7:35p.m.		
226			
227	Ms. Stewart took her seat at the dais, with the rest of the Board members.		
228	Mr. Roth also joined the meeting at this time.		
229			
230	New Business (2)		
231	A request for a variance from Matt Stanley, Legendary Homes, on behalf of property owner	r,	
232	Michele Stanley Homes, LLC, for the property located at 7933 Cooper Road, Montgomery,		
233	OH, 45242 to allow a new driveway to have a front yard coverage of 61%, where 40% is the	;	
234	maximum permitted, per Schedule 151. 1009 (B) of the Montgomery Zoning Code, as		
235	described in the City of Montgomery Staff Report, dated June 25, 2024.		
236			
237	Staff Report		
238	Ms. Hays reviewed the Staff Report dated June 25, 2024, "Application for Variance: 7933		
239	Cooper Road".		

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Board of Zoning Appeals Meeting

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- 241 She showed drawings on the wide screen for all to see, to provide more understanding of the
- 242 Staff Report. She indicated that she had received emails regarding this application, which were
- included in the Board's packets. She also noted that there was a question about the southern
- 244 apron extending slightly past where the imaginary property line would be within the right of
- way. She showed all on the wide screen. Because it is in the right-of-way, the City can require
- 246 the builder to keep it so that it doesn't go past the property line. It does not need to be a
- 247 condition, it is something that Staff will handle. Ms. Hays stated that the builder was aware of
- this requirement, and it will be placed in a way that it does not cross the property line.

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Chairman Byrnes asked if there were any questions from the Board. There were no questions from the Board.

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253 Chairman Byrnes asked if the applicant wished to speak.

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Matt Stanley, Legendary Homes, P.O. Box 43186, Montgomery, OH 45140 was aware that there may be different opinions on his application; he appreciated the time to speak. He stated that there was a current Montgomery resident who would like to buy this home. In order to proceed, they have placed a condition (as stated in the variance above), on the driveway change.

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He was proud of this home, stating that there were many special features: gas lamps on the house, limewashed brick, gable brackets and carriage garage doors; these are things that make this home inviting and charming, and enhances the neighborhood.

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Mr. Stanley noted that they intend to use pavers, not concrete, which will enhance the look and feel. He felt that pavers blended in better with the landscaping, than the stark concrete look. These will be permeable pavers, which allow the water to permeate right into the ground, and not run off into the street. This is another level of expense that is not required, but they will do it, if approved.

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Mr. Stanley showed a home across the street, with a circle driveway (also non-conforming) with 2,397 square feet of concrete, which was over the maximum allowed for the district at this time. His application asks only for 578 square feet of pavers. He showed several examples of nearby homes on Zig Zag, with their driveways, some in blacktop. Ms. Hays wanted to clarify that the applicant's driveway was 954 square feet, and the maximum permitted was 578 square feet.

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He showed a photo of a sample of a home with pavers, noting that they would be doing something similar, with the same color scheme. He noted that they would add street-level trees to the home, and heavily landscape the house. It would be a winding circle driveway in front of the home. He stated that there was an email from a neighbor who was also in favor of the application.

- Mr. Stanley reiterated Staff's comment on the last page of the Staff Report: it was within his
- 283 right to have built the home further back by eleven feet, which would not have required a
- variance; this driveway could have been put in, and would have been within the permitted
- 285 percentages.

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Board of Zoning Appeals Meeting

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Mr. Stanley asked for any questions.

Ms. Stewart stated that a neighbor, Mr. Hattersley, had submitted two alternative options, which she read into the record. She asked for Mr. Stanley's response.

Option 1: Lot West of House: You mention that the 10-foot wide lot on the west side of the house requires a 5-foot driveway setback, meaning a side driveway 10-foot wide on the west side would violate the zoning. However, the applicant is already asking to violate the zoning. This would, however, be the lesser evil. I would not oppose a zoning exception application for a 10-foot wide side lot driveway, especially since such a driveway would abut another driveway, and one that, itself, is probably too narrow for two houses, according to our zoning.

Mr. Hattersley was in the audience, and asked to withdraw Option 1.

Option 2: Lot West of Driveway: Moreover, the lot on the west side of the driveway is over 14 feet, and that lot, likewise, abuts the other driveway. Should a case be made, based on actual experience by someone who actually lives in the house, there is over 14 feet for a narrow width – 9 feet wide or less – pad extending westward from the zone-appropriate driveway. Importantly, I would prefer that it be only 10 feet or less long (east to west), so that it does not invite long-term parking. It should be just enough to facilitate turning around.

Mr. Stanley showed a picture that had just been taken this week (by Ms. Hays), of the home. He felt that it would be too tight to turn around out of the right side of the garage door. Ms. Hays believed that Mr. Hattersley was referring to the bump-out option; she asked him to let them know, if this was not correct.

Ms. Stewart asked Mr. Stanley how he would respond to the bump-out option. Mr. Stanley stated that his Civil Engineer did not feel that you could come out and make that turn. Ms. Hays stated that, from a zoning perspective, it would require a front-yard setback variance for accessory parking and a side setback variance.

Mr. Berliant asked if he was under a binding contract with the potential buyers. Mr. Stanley stated that he was not, but they had told him that if this goes through, they will put in a contract. Mr. Stanley believed they would walk away if they did not get the variance.

Mr. Roth asked if there was a driveway in there right now. Mr. Stanley stated there was not. Mr. Roth asked where people parked, when they came to look at the home. Mr. Stanley replied that they jump up on the curb and park in the front yard, and then start questioning all of the safety issues. If it is really muddy, he has heard that people park down the street, illegally behind commercial buildings. Mr. Stanley stated that they have a sign there, asking people not to use the private drive to the right. Mr. Stanley stated that when potential buyers tour the property, they are shown renderings of what it will look like with and without the driveway.

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- Mr. Roth thought that when Mr. Stanley had bought /built this property, he must have anticipated
- that this would be a problem; otherwise they would not have asked for the variance and set the
- home further back, so they could have four cars in the garage. Ms. Hays stated that it was
- actually her recommendation to set the house 20' back. Typically, with the built up on block
- rule the surveyor will average the two houses on either side because would make for a
- continuous street wall, which would have been 14.9'; and in this instance, Ms. Hays knew that
- parking was an issue, and suggested to the builder to move it back just a little bit, to allow for
- more stacking, while at the same time, not impacting the visual street wall on this section of
- 338 Cooper.
- 339
- Yes, Mr. Stanley was aware, but Staff stated that she suggested moving the house back, even further than what was required, based on the survey averages.
- 342
- Mr. Roth asked if this was granted, would Mr. Stanley use pavers for all of the paved surface.
- Mr. Stanley confirmed, other than sidewalks, and the apron.
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- 346 There were no more questions from the Board.
- 347
- 348 Chairman Byrnes asked if any guests or residents had comments.
- 349
- 350 Thomas Hattersley, 7967 Cooper, Montgomery, OH 45242 provided his handout to all Board
- members and the secretary. This included emails dated June 17, June 15, and his 4-page report.
- 352 Mr. Hattersley noted that the quality of his life is in his neighborhood was much better than it
- was four years ago, when he moved there. He gave a few examples of the changes.
- 354
- 355 He read his 4 page report into the record, noting that originally, he had heard that this driveway
- would be made of concrete; and that is not the case now. Since it was an oral commitment for
- pavers, Mr. Hattersley suggested getting it in writing. Mr. Hattersley stated that he attended a meeting at one time, where oral representations were made, and were not kept.
- 359
- 360 Ms. Hays stated that the Board could make the pavers a condition.
- 361
- He asked for any questions.
- 363
- 364 Mr. Berliant asked if Mr. Hattersley had offered his alternative options to the builder.
- Mr. Hattersley stated that he gave it to Staff. Mr. Berliant asked if he had tried to offer it to the
- builder. Mr. Hattersley stated that he did not, and gave a copy of his handout to Mr. Stanley.

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368 Chairman Byrnes was not able to comment on the report, as she was not familiar with all of the technical information.

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Mr. Stanley stated that he would respond after all guest/resident's comments.

- 373 Dan Thomas, 7951 Cooper Road, Montgomery, OH 45242 referred to Staff's suggestion of
- moving the house back a bit; he asked if she told Mr. Stanley that he would have to ask for a

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variance someday. Ms. Hays did not anticipate Mr. Stanley coming for a variance, that was not her intention. Her suggestion was simply based on an overall planning perspective, looking at the street and the house, as a whole, so as not to create a jack-o-lantern effect (so it wasn't too far back). It is a delicate balancing act to have adequate parking and also have the streetwall look nice. She did not think the request would come for additional parking.

Ms. Stewart inquired, and Ms. Hays explained that there is a rule in the Zoning Code that allows a legal non-conforming front-yard setback, if the whole block, essentially, has all legal, non-conforming setbacks — which this one does. You can average the two homes on either side of this property, and that is the front-yard setback, without requesting a variance. There was no variance necessary. This is why the front yard setback on this property is less than what is required, but it also meets Code. At the time, when it averaged out to 14.9', she suggested to Mr. Stanley to go ahead and bump it to 20 feet, to allow enough space to have parking. A standard parking space is 9 feet by 19 feet. This would give them enough space to have a car parked in a full car length, and not have it overhang on the sidewalk. That was her thought process.

Mr. Al Sabato, 7976 Cooper Road, Montgomery, OH 45242 wanted to give Mr. Stanley credit, as he was picturing a concrete pad. He felt that the pavers were a big improvement. The pictures were helpful on other circle driveways, and the samples, also. He believed, that with the limited space available here, the landscaping area would be so small, it wouldn't come anywhere near the sample photos he has shown.

He and his neighbors were concerned with setting precedent, and with tear-downs of what future builders might do. He felt that what was proposed, was a compromise -- a reasonable compromise, but didn't feel it would come anywhere close to allowing what has been proposed. He agreed that it will look good, it will obviously be the most expensive house on the street, but it will not fit with the rest of the neighborhood homes. He asked the Board to be very careful and cautious about putting a home in here, so different, that it will not fit in the neighborhood. He felt that it would set a precedent that would allow more problems down the road, and ruin the ambiance and the character of the street.

Dick Frishkorn, 7954 Cooper Rd., 45242 stated that he lived in the house across the street from this property, and has lived there for 17 years. It was interesting to him that the circular driveway was not reviewed in front of the Zoning Board, because he thought it had been. He noted that for his home, Mr. Frishkorn had proposed a circular driveway, and it was rejected. It did not approach the maximum of 41% requirement. Ms. Hays noted that for the lots on his side of the street, the maximum was 35%, because his lot was wider, and Mr. Stanley's width was more narrow.

He stated that his variance (brought forward by his builder, Park Homes) had been denied, and his neighbor's had been approved, before him. There was discussion, and it was determined that he probably went to a Landmarks Commission meeting, not this Board. He stated that after 17 years of backing out on Cooper Road, from his very challenging driveway, he has never felt unsafe, as there was adequate visibility. He was not aware of any neighbor who was in favor of

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this variance; he felt he was speaking for the neighborhood. Referring to one of your earlier 419 comments, Mr. Frishkorn, stated, "If the neighbors aren't for it, then you can't be for it." 420

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Mr. Berliant asked Mr. Stanley if he wanted an opportunity to respond, and would he be able to explain as to why the alternative didn't work for him. He asked if Mr. Stanley wanted to step back and revise his plan to the extent that it might be a little more acceptable.

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Mr. Stanley responded, stating that he understood there were two issues here: 1) backing out of 426 the driveway, and 2) parking. 427

428 He talked of 14 feet, with a pad to park on, for guests – that is what the circle would allow you. 429 He noted that this was what the buyer wanted. Ms. Hays stated that she had this discussion with 430

Mr. Stanley several months prior to this meeting, to evaluate the least amount of a variance he 431

could request. They looked at the option of a bump-out, and even on Mr. Hattersley's diagram, 432 the 9 foot 4 inches of depth (which would require a 5 foot setback variance), would block

433 coming out of the garage. It was not deep enough to fit an entire vehicle. Even if he went to the 434

property line, it would be 14 feet, 4 inches, and that still would not provide an adequate parking 435 436 space.

So that would only alleviate one of the issues, which is the maneuverability out of the garage, but 437 it would not provide an additional parking space. Even if the Board approved this, it would still 438 require one variance for the right-of-way setback. 439

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Mr. Berliant asked if he wished to revise his application before they move forward. Mr. Stanley 441 did not want to do that. He stated that he had discussed options with Staff, and he believed this 442 443 was the best one.

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Mr. Roth asked if Mr. Stanley originally planned to put in a concrete driveway. Mr. Stanley stated that he did.

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Mr. Roth asked why the driveway wasn't already in there. Mr. Stanley stated that they were very busy, and behind, due to rain. He stated that with this home being a high-end product, he did not want to move forward with a driveway until the rest of the home was built because the oil from big trucks will ruin it, and the weight can crack off the corners. His intention was to get the driveway in, but there were too many obstacles. He detailed more reasons.

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Chairman Byrnes asked Staff if this variance did not pass, what would the next step be, for the 454 applicant. Staff stated that if the applicant supplied a substantially different plan, he could come 455 back next month; he did not have to wait six months. 456

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There were no more questions from the guests or residents. 458

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460 Adjournment

- Mr. White moved to close the public hearing. 461
- Ms. Stewart seconded the motion. 462
- 463 The public hearing adjourned at 8:37p.m.

Formal adoption is noted by signature of the Clerk within the Minutes.

Board of Zoning Appeals Meeting

June 25, 2024

Chairman Byrnes opened the business session at 8:37p.m.

Business Session (2)

A request for a variance from Matt Stanley, Legendary Homes, on behalf of property owner,
Michele Stanley Homes, LLC, for the property located at 7933 Cooper Road, Montgomery,
OH, 45242 to allow a new driveway to have a front yard coverage of 61%, where 40% is the
maximum permitted, per Schedule 151. 1009 (B) of the Montgomery Zoning Code, as
described in the City of Montgomery Staff Report, dated June 25, 2024.

Chairman Byrnes asked for comments from the Board.

Ms. Stewart wanted to correct a comment stated earlier by Mr. Berliant, our Board member who is new, and not yet familiar with all of the rules. The comment was made that if the neighbors are for it, then we should approve it. And then it was noted by a guest, that if the neighbors aren't for it, then you don't approve it. This is not accurate, in fact, ironically there are people in this room, on another matter, that would disagree with that. She pointed out that the next hearing was previously an application that was one of the most contested by neighbors, than we have ever had, and yet it was approved. She noted that neighbors' comments weigh very heavily with the Board, but it is not the primary factor, and they do not base their entire decision on that.

Ms. Stewart stated that there were comments that the house does not fit there – it is already built there. This Board has no purview on that element.

Ms. Stewart stated that she had a large vehicle and visited the site. Based on her visit, she determined that there was no way it would turn from that parking pad, as indicated by Mr. Hattersley, into that garage (mathematics aside). It would take a 6 point turn, at least; in fact, when she was inspecting this house, she had to go straight down Cooper Road and down side streets to find a place that she was comfortable turning her vehicle around, in traffic.

She stated that there was a first amendment comparison that was not applicable here, in her opinion. Also, there was a note in one of the comments that cars are equipped with alarms and cameras. She noted that her vehicle has 360 degrees of cameras, including an overhead one; she felt that there was no way she could make that turn.

Ms. Stewart noted that many comments were made about aesthetics, which is fairly subjective as an analysis, and it was not a consideration, and if it was, she disagreed with it. At her home, she has a circle driveway, and felt that they were elegant, and elevated the property in appearance and value. She believed that every one of the pictures shown had a higher value and aesthetic than a parking pad on the side. She felt that the charm and the ambiance was better maintained with a circle driveway than with a pad.

She commented on the streetwall, noting how significant it was; she appreciated the desire to maintain the streetwall on Cooper. She has seen other streets that did not have this in place, and some of the homes stand out, and it does not look nice at all.

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Board of Zoning Appeals Meeting

June 25, 2024

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Ms. Stewart stated that this Board considers the minimum necessary, and she felt it was met, for this application. She felt there was a practical difficulty because the builder was trying to work with the City, and alleviate a legitimate concern.

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She did not feel that the subjective aesthetics consideration was a part of the factor to consider for this application.

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Mr. Uckotter did not believe there was a practical difficulty because there were a number of homes who had to back out of their driveways onto Cooper Road. He was not opposed to allowing the turnaround, but he felt that the percentages were set for a reason. There was more discussion about other streets and homes without off-street parking. Mr. Uckotter felt that the intention of the percentage was not to fill up the pavement and garage with cars.

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Ms. Hays stated that this lot had several practical difficulties: reduced front-yard setback, non-conforming side setbacks, lot width, and square footage.

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Chairman Byrnes considered all of the homes on Mitchell Farms who have regular driveways, where parking and cars are a problem. If you are buying this home, you know there is no street parking. She did not have a problem with the aesthetics of this home, but what if someone wants to come along and do the same thing, but wants to use blacktop instead of concrete?

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Ms. Stewart stated that there have been other properties on this street and in this area that we have given exceptions to, because they were on this street, because of the particular nature of this small community. Just like those other exceptions were applicable to this small geographic region only, this doesn't apply to all other homes (like Mitchell Farms). This is a variance based specifically on this street only – the same as we consider variances specific to other streets.

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Ms. Hays believed that this was the most narrow lot on Cooper Road; and she pointed out that it was not one of the largest homes. She explained that this was unique to this application.

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Mr. Berliant asked if a circular driveway would solve the problem. Ms. Hays stated that it would allow for an additional parking space and a turnaround. Ms. Stewart stated that the reality is that homeowners want a turnaround on their property; it is the current trend in Montgomery.

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Mr. Berliant asked if the applicant wished to table this application. Mr. Stanley stated that he did not wish to do so.

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Ms. Hays stated that if this motion was denied, the applicant could still come back, but would need to have a substantially different application.

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Mr. Uckotter moved to approve the request from Matt Stanley, Legendary Homes, on behalf of property owner, Michele Stanley Homes, LLC, for the property located at 7933 Cooper Road, Montgomery, OH, 45242 to allow for a new driveway, constructed of permeable pavers to have a front yard coverage of 61%, where 40% is the maximum permitted, per Schedule 151. 1009

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(F) (1) of the Montgomery Zoning Code, as described in the City of Montgomery Staff Report, 554 dated June 25, 2024. 555

556 This approval is justified by criteria # 1, 4, 5, 6, 7, 8, 9 & 10, as outlined in the Montgomery 557 Codified Ordinance Chapter 150.2010 (d) for granting variances. 558

Ms. Stewart seconded the motion.

The roll was called and showed the following vote:

563 AYE: Mr. Roth, Mr. White, Ms. Stewart, Mr. Berliant, Chairman Byrnes (5)564 (1) NAY: Mr. Uckotter 565 (1) ABSENT: Mr. Molloy 566 (0)ABSTAINED: 567 568

This motion is approved. 569

Adjournment

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- Ms. Stewart moved to close the business session. 572
- Mr. Uckotter seconded the motion. 573
- The business session adjourned at 8:55p.m. 574

575 Chairman Byrnes opened the public hearing at 8:55p.m. She called for a 5 minute recess. 576

The meeting reconvened at 9:00p.m.

New Business (3)

A request for a variance from Matt Tedford, on behalf of Renaissance Home Investments, property owner, to allow a new single-family dwelling to have a front yard setback of 25 feet, where 50 feet is required, per Schedule 151.1005 of the Montgomery Zoning Code. A second variance is also being requested to allow for a rear-yard setback of 32 feet, where 52.5 feet is required, per Section 151.1004 (D) (4) of the Montgomery Zoning Code.

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Board of Zoning Appeals Meeting

June 25, 2024

Staff Report 588

Ms. Hays reviewed the Staff Report dated June 25, 2024, "Application for Variance: 9004 Old 589

Creek Trail". 590

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She showed drawings on the wide screen for all to see, to provide more understanding of the Staff Report. Ms. Hays asked if there were any questions. There were none. 593 594

Chairman Byrnes asked if the applicant wished to speak. 595

- 596 Matt Tedford, Renaissance Home Investments, 5548 Stewart Road, Cincinnati, OH 45227 597 introduced himself and his partner, Joshua Kirk. Mr. Tedford stated that they recently purchased 598 this lot, and learned from the agent/owner that had owned this property, that it has had a lot of 599 problems for a number of years, from the number of people who have purchased and sold it. 600
- He noted that it was a very odd shaped lot, and it was difficult to determine where the home 602 would sit on the lot because it sat at a weird angle. He stated that they did a lot of research, and 603 looked into the variance that was granted a couple of years ago. He is asking for the very same 604 variance that was approved about two years ago. He stated that the proposed buyer fell out of 605 favor with the builder right before they started to break ground. 606
- 607 Mr. Tedford stated that they had talked with a spec (speculation) builder and a design architect. 608 He stated that there were now stakes up there. 609
- One of the big challenges is that it is so steep on one side of the property (it rises up over 40 feet 611 from street level to the back of the property). He has a Geotechnical report which shows where 612 the bedrock is located, so they know how far they need to go down to put in the foundation. 613 They also spoke with a design architect, who could design a home that would fit within the 614 parameters. It is the same variance that was approved, with similar setbacks to neighboring 615 houses. 616
 - Mr. Tedford pointed out that, what is called the front of the lot, is actually the side of the lot he showed this on the wide screen. They, have positioned the home in the only way that a house could be built on this lot. He stated that they would be very deliberate on respecting the neighbors during the building process. He noted that he had spoken with the person who would grade the land, and they will create a spot for all construction traffic and tradesmen to park, as there is only one way in and one way out, on this street. Ms. Hays stated that if that is a concern with the neighbors, she could discuss in greater detail with the builder during the preconstruction meeting on that issue.
- Chairman Byrnes asked if there were any questions for the applicant. 627
- 628 Chairman Byrnes asked if this would be a market house - did they have a contract to sell to 629 someone now. He stated that they did not. Chairman Byrnes stated that they would have to have 630 a driveway. Mr. Tedford stated that it was in their plan. 631

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Board of Zoning Appeals Meeting

June 25, 2024

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There were no other questions from the Board.

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Chairman Byrnes asked if any guests or residents had comments. 636 637

638 639 Allen Schulman, 9011 Old Creek Trail, Montgomery, OH 45249 asked what type of retaining walls would be needed, to be sure it didn't impact his yard.

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Diane Schulman, 9011 Old Creek Trail, Montgomery, OH 45249 stated that it was almost unimaginable to her how they will protect other homes and how the residents will be able to get in and out of the street, while building. She stated that this was a very narrow, private lane. She asked for some level of reassurance that everything will be safe, and not ripped up.

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She was concerned that half of the land would fall into the creek. She wanted to be sure it would be safe and wanted to be assured that there are things in place to safeguard this plan.

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Ms. Hays stated that there will be retaining walls and the entire project will be reviewed by the 649 City engineer and the building officials. Ms. Hays asked if there was something specific that 650 651 Ms. Schulman was asking.

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Ms. Schulman did not have any experience with a situation like this; she wanted to have some level of assurance that there were governmental officials that have a lot of experience with this more than the builders. Ms. Hays confirmed there would be. She stated that when the applicants submit their drawings and documents - they will all have to be approved and stamped by the City engineer, as well as other engineers on staff.

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Chairman Byrnes asked if this was part of the Hillside Trust that goes all around Cincinnati. 659 660 Ms. Hays stated that it was not.

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Chairman Byrnes asked if we had any issues in the past, with hillside slides. Ms. Hays recalled one minor issue, in the last 10 years. There was a home off of Windzag Lane, it was an existing home, that slid. The ground moved, not the house, and they shored it up, and put up a retaining wall.

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Mr. Martin Simon, 230 Vintage Club Drive, Montgomery, OH 45249 stated that he was an architect, a resident of Montgomery, and a certified plans examiner in several municipalities beyond Hamilton County. He stated that he was familiar with drawings and how building departments operate, for example, the City of Akron got their building department de-certified. He was also familiar with landslides. He had gotten so many ideas tonight, from what he has heard. He suggested that they look up "Lawyers Run" in Anderson Township. There were many lawsuits because houses were sliding down the hill. Chairman Byrnes asked who the builder was, and Mr. Simon couldn't remember.

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He pointed out that this lot has been purchased and repurchased several times - it is a very 676 affordable lot in the City of Montgomery. He asked to see the layout of the house. Ms. Hays 677

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Board of Zoning Appeals Meeting

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showed him on the wide screen. He heard that this was near a floodplain. He asked about reducing the setback, and questioned that by reducing the setback, they would be further away from the floodplain. That didn't sound right, to him. If you are reducing the setback, then you would be getting closer to the floodplain. Chairman Byrnes asked if the floodplain was at the bottom. Mr. Simon confirmed that it was - the creek was across the street. He was unsure how far it extended up.

Mr. Simon, felt that this house, based on his thinking, would sell for somewhere in the neighborhood of \$900,000 to \$1.5 million dollars, and will have next-to-no backyard. It will be looking out on a 14 foot high retaining wall, and will have almost no front yard. Where will their guests park?

Mr. Simon stated that, to build a retaining wall, a house on a lot that is 40 feet in an incline, will require heavy, major equipment on a quiet street. This is not a typical ranch home. In the previous attempt, they ran out of money. He noted that the brush is now piled up at the bottom of the hill (from the last builder), and no one has taken responsibility for clearing it out; it is a mess. What if this builder begins this, strips the hillside of its vegetation, and then leaves a partially completed building? He asked for any questions. There were none from the Board.

Chairman Byrnes asked if the City had any authority on the piles of brush, given that it was a private road. Ms. Hays stated that there is a property maintenance code, and the City can ask for it to be removed.

Marisa Phillips, 8996 Old Creek Trail, Montgomery, OH, 45249 stated that Rumpke, brush pick-up and mail do not come down their street; everything has to brought to the top of the street. Ms. Phillips stated that they were responsible for snow removal, and when they want brush pick-up, they have to bring it all the way to the top of the street, for pick-up. Ms. Hays stated that she will reach out to the builder to get the brush cleaned up.

Chairman Byrnes asked if there were bonds involved in any of this. Ms. Hays confirmed, noting that this would be treated just like they would in any development – they would have bonds on erosion, right-of-way, and street cleaning.

Marisa asked if there was any protection to the current homeowners on this street, for maintenance on the street, because it was a long road that they would be responsible for repaving – and that would most likely have to be done after this heavy equipment went over it. Ms. Hays stated that it would be between the homeowners since it is a private drive. She believed there was an agreement that all of the neighbors shared equal maintenance of the road. Marisa stated that there was a verbal agreement between them all to share snow removal.

Ms. Hays stated that shared maintenance of the road was listed in the subdivision plat. She felt it might be a good idea for them to have an agreement with the builder stating that the builder will be responsible for any damage from their equipment. That is not something the City would get involved with. Chairman Byrnes stated that if it wasn't a private street, it would be different.

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Board of Zoning Appeals Meeting

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- Ms. Hays stated that the City's inspector was good about documenting the current
- 724 conditions of the site, so he probably will photograph everything, prior to the start of
- 725 construction. Chairman Byrnes couldn't imagine that the builder would want the street torn up,
- 726 if they were building and selling a new home. Marisa explained that the location of this
 - proposed home was in the most narrow part of the street; it was in a tight spot.

Deborah Applebaum, 9000 Legendary Pass, Montgomery, OH 45249 stated that she lived in the house on the top. She was concerned that the builder may not complete the project, and asked if they had protection if the retaining wall wasn't in place, or the hill washed down. She knew it was sandy back there, and didn't want her back yard to wash away.

Chairman Byrnes asked if the retaining wall went in first. Staff stated that it typically would, and the City would probably require a higher bond amount because of the situation and the topography. That will require an internal City discussion, but most likely will be more than the \$2,000 that is standard.

Chairman Byrnes asked Ms. Applebaum if anybody in the neighborhood had to buy flood insurance. Ms. Applebaum assumed so. Chairman Byrnes asked Staff if they were subject to federal flood insurance. Staff stated that the proposed structure was not in the floodplain.

Mr. Schulman stated that his home was situated right next to the creek; he stated that in 2000, there was a large flood, and it wiped out the basement of his home. He had to have it rebuilt. He stated that flood insurance was available, but then a fairly large wall was also built, to contain the creek. He wasn't sure if flood insurance was even necessary, at this point.

Mr. Tedford wanted to respond. He stated that their design architect, whose background was in structural engineering, visited the site. They would be drilling piers down to the bedrock; and there would be a retaining wall in the back. In the back, where the lot sits, it is about 50 feet from the corner. He showed all on the wide screen. He stated that they would not really be cutting into the hill. There are no windows on the back side of the house so you are not looking out straight into the hill. He gave more details, showing all on the wide screen. The house will actually sit fairly close to the front of the lot.

Mr. Tedford stated that the floodplain went to the elevation of 702 feet, and they are well above that, and would be building the home outside of the flood zone. Mr. Uckotter stated that he was an insurance agent and had access to the FEMA flood maps. He actually looked at the flood map, and he believed that the flood zone started on the other side of the road. Mr. Tedford confirmed, noting that their lot actually extends to the other side of the road, and that is the part of the property that is in the flood zone.

Mr. Uckotter suggested to Mr. Tedford that he request a Letter of Map amendment from the surveyor. Because the property is partially located in the flood zone, if a potential buyer is needing a loan for the property, the bank will ask for a flood policy, but if you have a Letter of Map amendment, it exempts the structure from mandatory flood insurance. Ms. Hays stated that the Floodplain manager from the City would also need to approve it.

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Board of Zoning Appeals Meeting

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Mr. Roth asked, if when they purchased the property, usually in the deed, there is something that explains about a shared or common driveway and the obligations. Mr. Tedford did not see that in the HOA documents. Mr. Roth felt it would be in the property description.

Ms. Hays stated that there was a comment on the original plat for the subdivision that stated that anyone who has a private drive must equally share the responsibilities of maintenance. Typically now, most people will have a detailed shared drive agreement.

Mr. Roth asked how far it was, from the street to the lot; how long was the common driveway, from the actual street to the lot. Mr. Tedford stated it was 562 feet from the front, all the way to the back corner of the lot. Ms. Hays stated that it was 560 feet to the right-of-way, to the public street.

Mr. Roth would have to agree that there will be a lot of unbelievably extra heavy equipment travelling across that, and your standard residential driveway isn't set up to handle that.

Ms. Applebaum asked if the engineer who approves these plans, would come out and watch over it, to make sure everything was going properly. Ms. Hays stated that he would conduct inspections at set times.

Marisa Phillips asked if the fact that this has been an empty lot for 39 years, is taken into consideration. The fact that this entire neighborhood was built, but that property has never been developed? Chairman Byrnes stated that they are sometimes called "unbuildable" lots. Chairman Byrnes recalled from the previous application regarding this lot, that the real estate agent had indicated that the lot wasn't buildable. That was not correct. It is a legal lot.

There were no more comments from guests or residents.

Adjournment

- 798 Mr. White moved to close the public hearing.
- 799 Ms. Stewart seconded the motion.
- The public hearing adjourned at 9:43p.m.

Chairman Byrnes opened the business session at 9:43p.m.

Business Session (3)

A request for a variance from Matt Tedford, on behalf of Renaissance Home Investments, property owner, to allow a new single-family dwelling to have a front yard setback of 25 feet, where 50 feet is required, per Schedule 151.1005 of the Montgomery Zoning Code. A second variance is also being requested to allow for a rear-yard setback of 32 feet, where 52.5 feet is required, per Section 151.1004 (D) (4) of the Montgomery Zoning Code.

Chairman Byrnes asked for comments from the Board.

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Board of Zoning Appeals Meeting

June 25, 2024

Ms. Stewart stated that we do not consider the buildability of a lot; this is a legal lot. If the neighbors did not want the lot adjacent to them being built upon because they did not believe it was safe, they had the same opportunity as the builder, to purchase the lot and then keep it from

being built on. This lot was for sale several times.

She stated that there were small geographic regions within the City that are outside of the norm, in terms of variances. All of the adjacent houses to this property have the exact same variances. One adjacent house actually has a greater variances, so we have to treat this house the same as the others.

Mr. White agreed with Ms. Stewart.

Mr. Uckotter moved to approve the request from Matt Tedford, on behalf of Renaissance Home Investments, property owner, to allow a new single-family dwelling to have a front yard setback of 25 feet, where 50 feet is required, per Schedule 151.1004 (D)(4) of the Montgomery Zoning Code, as described in the City of Montgomery Staff Report, dated June 25, 2024.

This approval is justified by criteria # 1, 2, 3, 4, 5, 6, 7, 8, 9 & 10, as outlined in the Montgomery Codified Ordinance Chapter 150.2010 (d) for granting variances.

Mr. White seconded the motion.

The roll was called and showed the following vote:

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837 AYE: Mr. Roth, Mr. Uckotter, Mr. White, Ms. Stewart, Mr. Berliant, Chairman Byrnes (6)
838 NAY:
839 ABSENT: Mr. Molloy
840 ABSTAINED: (0)

This motion is approved.

Mr. Uckotter moved to approve the request from Matt Tedford, on behalf of Renaissance Home Investments, property owner, to allow a new single-family dwelling to have a rear-yard setback of 32 feet, where 52.5 feet is required for panhandle lots, per Section 151.1004 (D) (4) of the Montgomery Zoning Code, as described in the City of Montgomery Staff Report, dated June 25, 2024.

This approval is justified by criteria # 1, 2, 3, 4, 5, 6, 7, 8, 9 & 10, as outlined in the Montgomery Codified Ordinance Chapter 150.2010 (d) for granting variances.

Mr. White seconded the motion.

The roll was called and showed the following vote:

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Formal adoption is noted by signature of the Clerk within the Minutes.

Board of Zoning Appeals Meeting

	June 25, 2024		
858 859 860 861	AYE: Mr. White, Ms. Stewart, Mr. Berliant, M NAY: ABSENT: Mr. Molloy ABSTAINED:	r. Roth, Mr. Uckotter, Chairman Byrnes	(6) (0) (1) (0)
862	This mation is approved		
863	This motion is approved.		
864	Adianamant		
865	Adjournment Mr. Roth moved to close the business session.		
866			
867	Mr. Berliant seconded the motion.		
868 869	The business session adjourned at 9:50.m.		
870	Chairman Byrnes opened the public hearing at 9:5	0p.m.	
871		All the second s	
872	Other Business		
873	There was no other business to report.		
874		fine fine	
875	<u>Minutes</u>		
876	Mr. White moved to approve the minutes of Febru	ary 27, 2024, as written.	
877	Mr. Uckotter seconded the motion.		
878	The Board unanimously approved the minutes.		
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880	Mr. White moved to approve the minutes of May 2	28, 2024, as written.	
881	Ms. Stewart seconded the motion.		
882	The Board unanimously approved the minutes.		
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884	Adjournment		
885	Mr. White moved to adjourn. Mr. Uckotter second	led the motion.	
886	The meeting adjourned at 9:55p.m.		
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893	Karen Bouldin, Clerk	Mary Jo Byrnes, Chairman D	ate
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