

Board of Zoning Appeals Agenda
November 26, 2024
City Hall
7:00 p.m.

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

Agenda Item 1

40 Traditions Turn (Lot 32B): Property owner Lucke Land, LLC, requests to allow for a 3,825 square foot single family structure to have an initial setback variance of 7.85 feet from the northwestern side property line for a window well and a second variance request for a 8.39 feet setback on the southwestern side property line for a window well where 10 feet is required per the Vintage Club of Montgomery Statement of Conditions and Exceptions Established as the Standards in the Planned Unit Development District.

7. Other Business
 - a. Board and Commission Training
8. Approval of Minutes
9. Adjournment

**CITY OF MONTGOMERY
BOARD OF ZONING APPEALS**

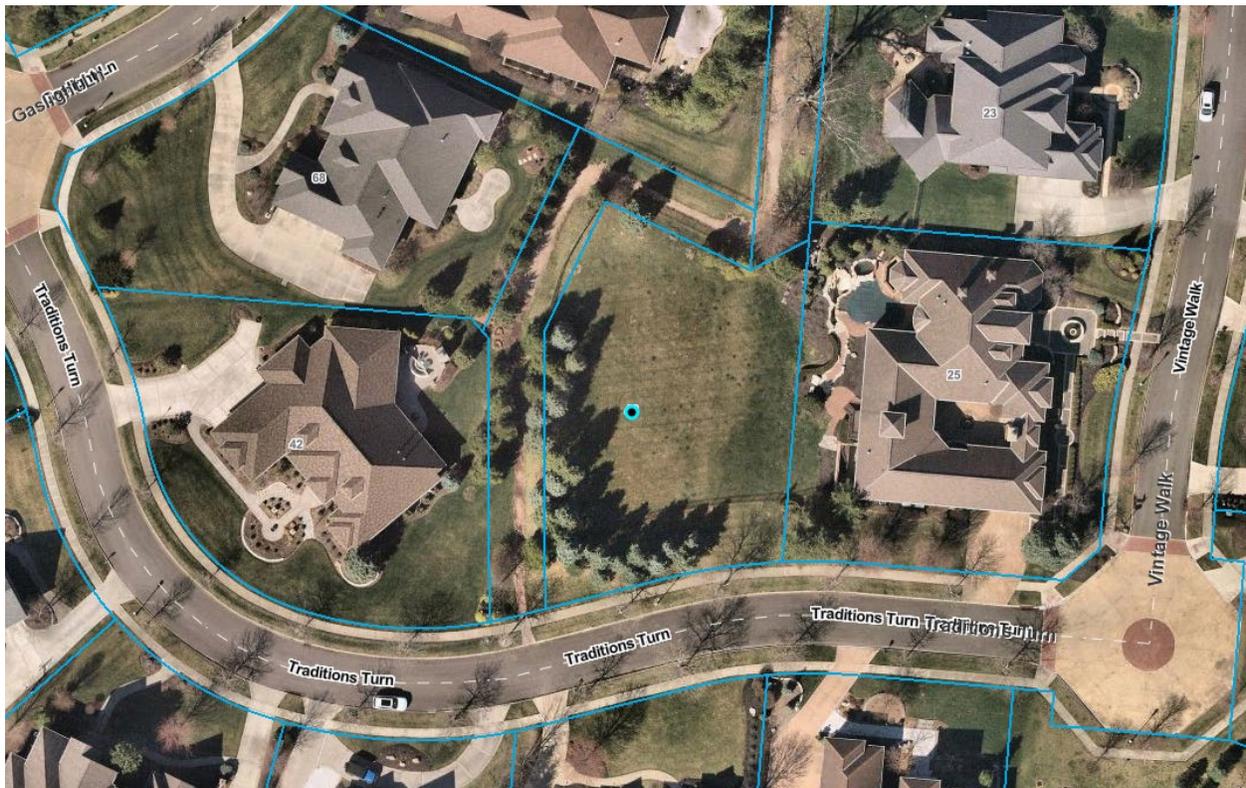
**Application for Variance: *Lucke Land, LLC*
40 Traditions Turn (Lot 32B)**

**November 22, 2024
Staff Report**

Applicant: Lucke Land, LLC
8825 Chapel Square Drive #B
Cincinnati, Ohio 45249

Property Owner: Same

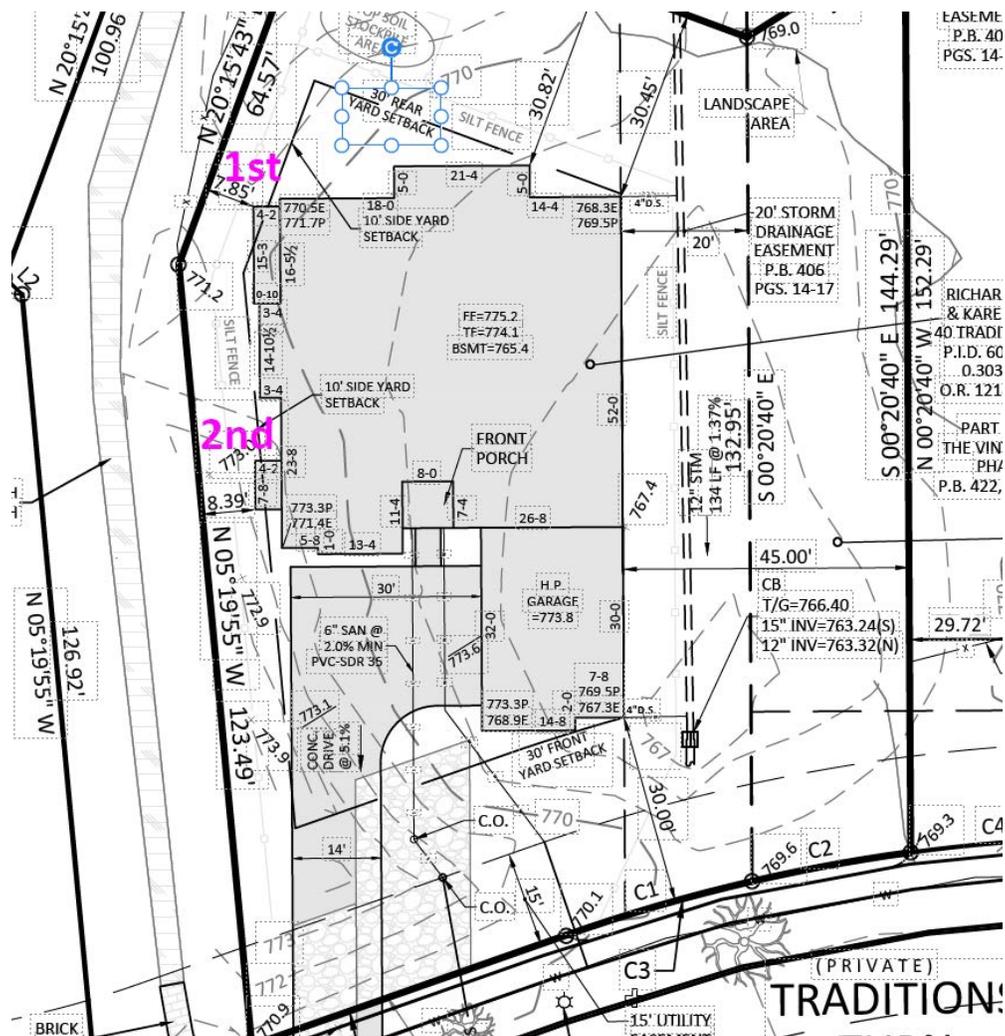
Vicinity Map:



Nature of Request:

Lucke Land, LLC, is requesting a variance to allow for a 14 square foot portion of the first window well on the west side to have a setback of 7.85 feet where 10 feet is required per the Vintage Club of Montgomery Statement of Conditions & Exceptions.

A 12 square foot portion of a second window well on the west side is also requested to have a variance to allow a setback of 8.39 feet where 10 feet is required per the Vintage Club of Montgomery Statement of Conditions & Exceptions.



Zoning:

This property is zoned 'A' single family residential/Planned Unit Development and is currently vacant with a proposal to use the site for a single-family residence. The properties to the west, east, north and south are also zoned 'A' single family residential/Planned Unit Development and are being used for single family dwellings in what is referred to as the Residential 'A' Estate Section of The Vintage Club PUD. Technically, the variances sought could be considered different for each window well, however, the findings and variance considerations are essentially the same and will be analyzed together for efficiency. Staff will refer to the window wells as "first" and "second" when referencing specifics regarding size, location, etc.

Findings:

1. The lot size is approximately 16,661 square feet and meets the minimum lot size requirement in the PUD district of 16,000 square feet.
2. The property has an irregular shape with a rear yard line that inverts for a portion to the south. Additionally, the western lot line angles toward the east at the rear portion of the site. The minimum lot frontage required in the 'A' District is 50' in accordance with Schedule 151.3004 and the lot meets the requirement at approximately 109 feet wide.
3. The property is subject to a non-buildable 20-foot storm drainage easement on the entire length of the east side of the lot.
4. The rear (north) yard and side (east) yard are bounded by an approximately 25 wide parcel that contains a mulch path which is owned by The Vintage Club Community Association, Inc.
5. The applicant is proposing to build a one-story single-family home with 2,648 finished square feet.
6. The finished basement is proposed to have a study with window egress as well as a third bedroom with a window egress which both encroach as previously described.

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?*

While the lot size is conforming at 16,661 square feet, all the directly adjacent lots are larger with at least 20,000 square feet. When coupled with the 20-foot storm drainage easement, the remaining buildable area is reduced. Staff estimates the lot size to be closer to 13,100 square feet when factoring in the easement. Overall, when compared to the surrounding larger lots the first floor sizes are also larger.

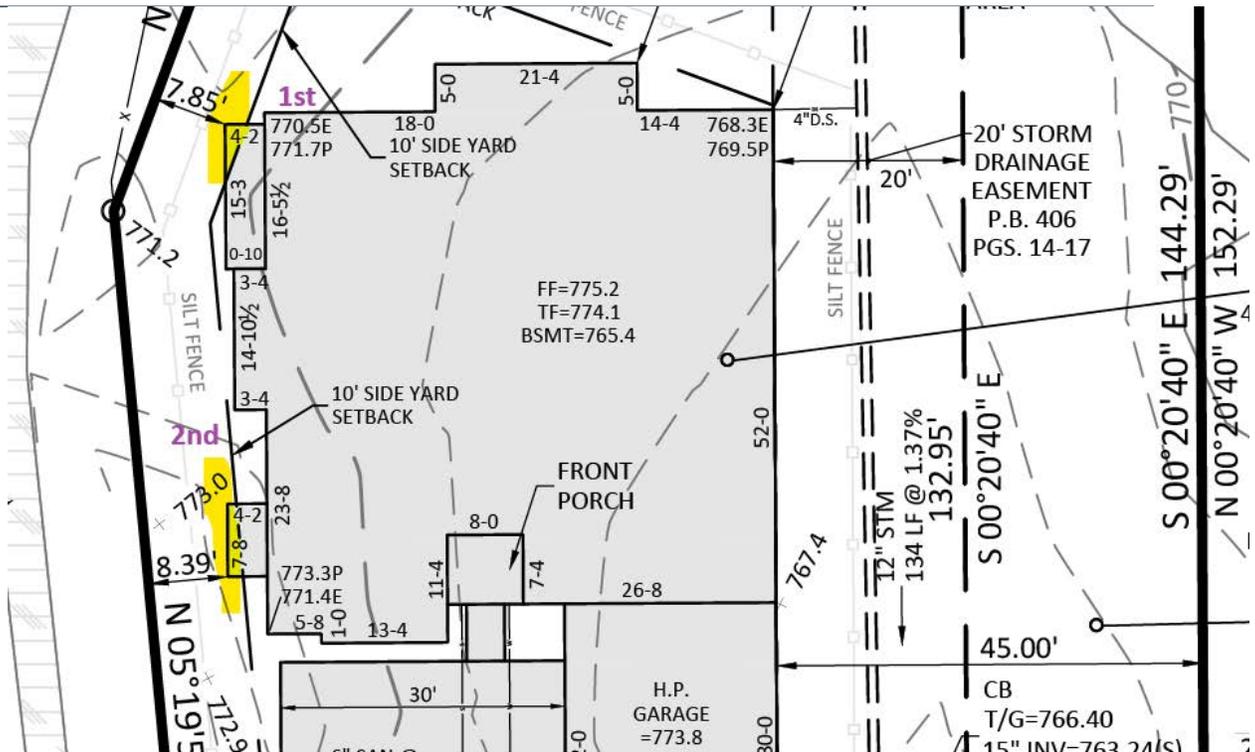
2. *Will the property yield a reasonable rate of return if the variance is not granted?*

Staff believes that the property would yield a reasonable rate of return without the variance(s), as a different sized house could be proposed.

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

Staff believes that the variance(s) are significant when considering it is a 24% encroachment (2.15') into the required 10 foot side yard setback for the first window well. It should be noted that the entire window well does not encroach but only a 14 square foot triangular area which represents 21% of the overall area window well (which is 66 square feet).

Similarly, the second window well is 17.5% or 1.61 foot encroachment into the 10 foot side yard setback. In this instance the encroachment is the length of the entire window well and entails 12 square feet out of the 33 square foot window well area or 36% of the total. Both areas are highlighted on the next page for reference.



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

Staff is of the opinion that the character of the neighborhood would not be substantially altered as the variances being requested are to allow for only partial encroachment of each window well that is essentially below grade. Additionally, the walking path on the western side provides a 25-foot buffer area so as to not create side yard access or safety issues between what would normally be two adjacent single family properties that each may have window wells. The 25-foot buffer area also reduces any potential negative visual impact to surrounding property owners. The applicant has also provided Homeowner's Association approval of the request.

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?*

The property owner was aware of the zoning restraint.

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

No special conditions exist as a result of actions of the owner.

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

The predicament could be feasibly obviated by reducing the width of the window wells or proposing a different style of home. However, the applicant is attempting to maximum a lot that is smaller than the typical neighborhood lot with the largest home possible.

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

The intent of the side yard setback requirement for structures is to allow for enough separation between other adjacent structures, as well as provide for a more uniformed neighborhood image and allow adequate room for stormwater drainage.

Staff does not believe that it is the intent of the Zoning Code to inhibit improvements to an existing property, if the improvement would not be detrimental to the surrounding properties or character of the neighborhood, the request is reasonable, and a practical difficulty has been established. Staff is of the opinion that the setback encroachment would not alter the character of the neighborhood.

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

Staff is of the opinion that that the variance would not confer any special privilege when considering the adjacent neighborhood trail, the slightly irregular shape of the lot and the 20-foot easement impacting the buildable area. Overall, this lot effectively has a reduced lot width and overall square footage.



Staff is not aware of any variances granted for window wells in the Vintage Club.

Staff Comments and Recommendations

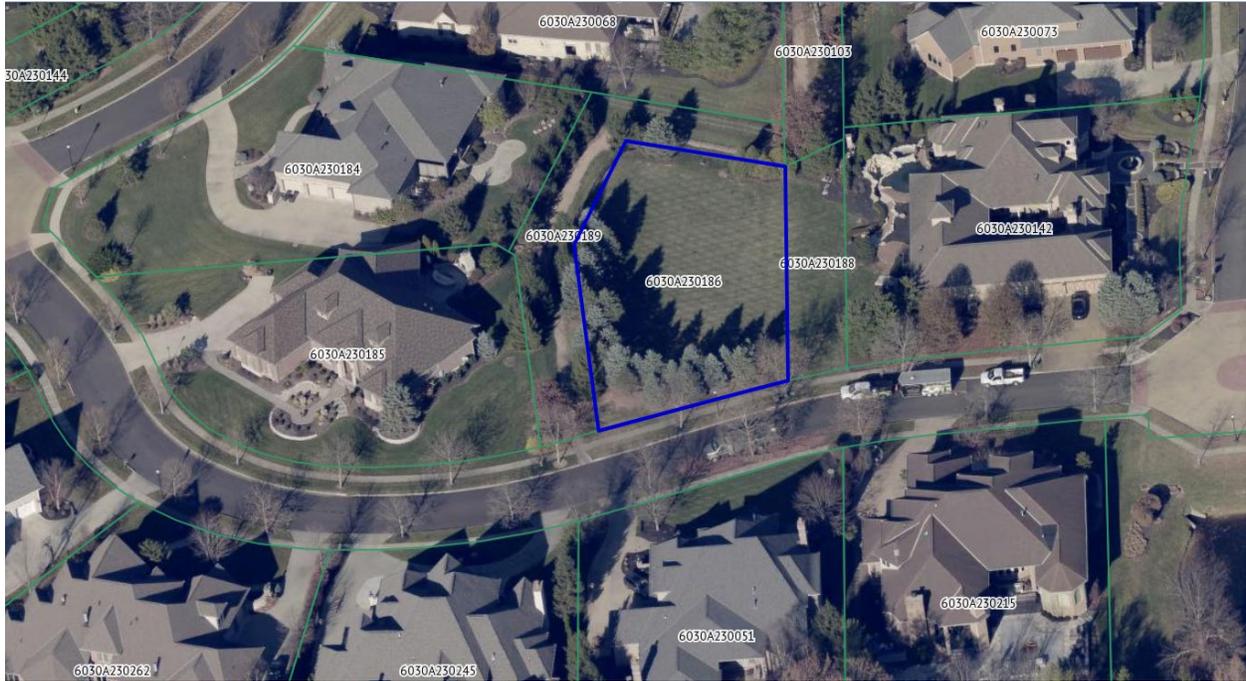
A variance for this lot may be justified due to the effective non-conforming size as a result of the large easement present on the property. Staff's understanding is that when the Planned Unit Development Regulations were created the overall imperious surface was permitted to be larger to allow for larger homes on the lots. While window well encroachments are permissible elsewhere in the City up to 5 feet, the conditions restricting window well encroachments in the Vintage Club were due to the larger home sizes permitted and the proximity to each other.

Due to the 25' foot wide parcel with a neighborhood trail abutting the side lot line where the encroachments are proposed, any potential safety concerns of having window wells close to an adjacent home are eliminated. Furthermore, the existing trail and buffer greatly reduces any negative visual impact.

Staff also recognizes that the character of the Vintage Club Estate Lot Neighborhood is of a premiere community with high quality finishes and large single-family residences that are bigger than many typical neighborhoods. From the perspective of preserving the property values and aesthetics of the area Staff can recognize the builder's intent to foster that same size and quality of a new single family structure.

Staff is of the opinion that the two separate encroachments are relatively minimal and would not cause any negative impact to adjacent properties.

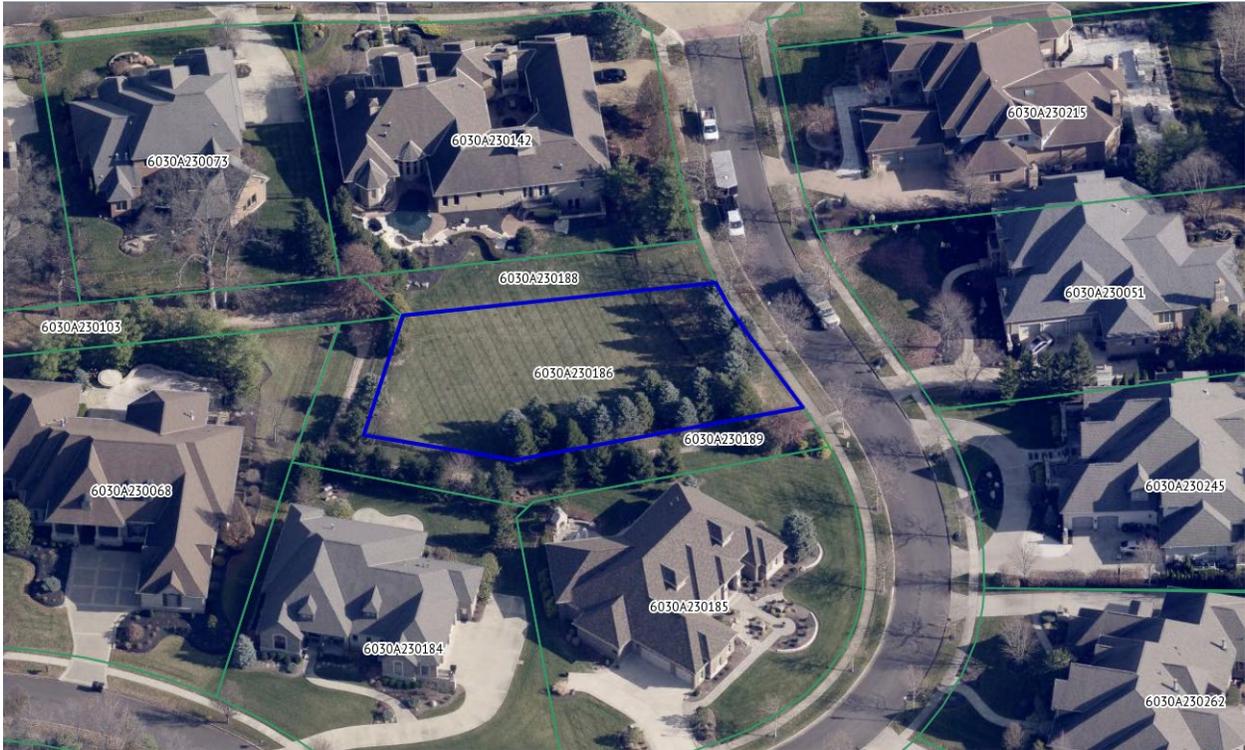
Granting the would be justified by criteria #1, 3, 4, 5, 9 and 10.



View Looking North



View Looking South



View Looking East



View Looking West



Close Up Looking West with Arrows Approximating Window Well Locations



Looking South from Trail (subject property on the left)



View of Trail Looking North (subject property on the right)



View of Site from Traditions Turn Looking North



Another View of site Looking North From Traditions Turn



8825 Chapel Square Drive, Suite B • Cincinnati, Ohio 45249 • 513.683.3300 • Fax 513.683.3315 • www.robertluckegroup.com

Date: November 6, 2024

Variance request- 40 Traditions Turn

To Whom it may concern:

Robert Lucke Homes is requesting a Variance for the side yard setback for window wells that are encroaching into the side yard setback. (See attached highlighted wells) Previous homes we have built in the city of Montgomery have allowed for us to have the window wells encroach into the side yard setbacks. The PUD regulations for the Vintage club restricted windows wells in the side yard setbacks.

We have received approval from the HOA on the variance request. (See attached email).

We are requesting approval to allow us to build the home as designed per the attached site plan .

Thank you,

A handwritten signature in blue ink, appearing to be "Scott Lucke", written over a light blue horizontal line.

Scott Lucke



CITY OF

MONTGOMERY

A CHARMING PAST. A GLOWING FUTURE.

APPLICATION FORM

Meeting (Circle): Board of Zoning Appeals Planning Commission Landmarks Commission

Project Address (Location): Lot 32B Vintage Club

Project Name (if applicable): VCD32B

Auditors Parcel Number: 603-DA23-D186-00

Gross Acres: 1.3825 Lots/Units 1 Commercial Square Footage _____

Additional Information: _____

PROPERTY OWNER(S) Purchaser Lucke Land, LLC Contact Scott Lucke

Address 8825 Chapel Dr # B Phone: 513-309-3109

City Cincinnati State OH Zip 45249

E-mail address scott@robertluckegroup.com

APPLICANT same 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 and accurate to the best of my knowledge and belief. I understand the City is not responsible for inaccuracies in information presented, and that inaccuracies, false information or incomplete application may cause the application to be rejected. I further certify that I am the owner or purchaser (or option holder) of the property involved in this application, or the lessee or agent fully authorized by the owner to make this submission, as indicated by the owner's signature below.

Purchaser
Property Owner Signature

FOR DEPARTMENT USE

ONLY

Print Name Elizabeth J Bailey CFO

Date 11/4/2024

Meeting Date:
Total Fee:
Date Received:
Received By:



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.

Window wells extend into the side setbacks.

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

No, irregular lot

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

No

Yes

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

No

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

No



CITY OF

MONTGOMERY

A CHARMING PAST. A GLOWING FUTURE.

6. Did the owner purchase the property with the knowledge of the zoning restraint?

Yes

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

No

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?

Yes

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

Yes

Scott Lucke

From: Doug Hinger <dhinger@traditionsgroup.com>
Sent: Tuesday, October 8, 2024 2:24 PM
To: Scott Lucke; Ted Hoerstmann; Scott Humes; Paul Trenz (PTrenz@gmail.com); Todd Steinbrink
Cc: Kevin Chesar; Nick Miller; Randy LaMar; Carroll; Celia; Jim Kiefer
Subject: RE: lot 32 B (40 Traditions Turn)Brendan,

Scott,

I apologize that this has taken so long to get resolved. This condition with egress walls extending into the setback is on many of the courtyard yards built by GT, primarily into the rear yards. For that reason, Traditions Group, The Design Review committee for new construction, nor the Board of the HOA have any objections to the plan as presented.

Regarding an on-site meeting, Traditions has no need to attend and if the HOA would like representation, the chair of the IRC comes to mind, but you might ask Todd Steinbrink or Paul Trenz for some feedback. Again, I apologize for the delay in getting you an answer. WE look forward to seeing one of your fine homes in the Vintage Club.

Regards

Doug Hinger

From: Scott Lucke <scott@robertluckegroup.com>
Sent: Monday, October 7, 2024 3:46 PM
To: Doug Hinger <dhinger@traditionsgroup.com>; Ted Hoerstmann <thoerstmann@traditionsgroup.com>; Scott Humes <shumes@traditionsgroup.com>; Paul Trenz (PTrenz@gmail.com) <PTrenz@gmail.com>; Todd Steinbrink <t.steinbrink@yahoo.com>
Cc: Kevin Chesar <kchesar@montgomeryohio.gov>; Nick Miller <nmliller@montgomeryohio.gov>; Randy LaMar <rlamar@robertluckegroup.com>; Carroll, Celia <ccarroll@sibycline.com>; Jim Kiefer <jkiefer@traditionsgroup.com>
Subject: RE: lot 32 B (40 Traditions Turn)Brendan,

Doug,

See attached email that was sent back on the 25th of September to Jim asking for contact with the HOA. We do not have final construction plans as we are looking to get preliminary approval on the Egress Window wells encroaching into the side setback. Montgomery has requested we get HOA approval on this before submitting for a Variance with them. They did not seem to have an issue with this as they allow Egress window wells in the setback in other parts of Montgomery that we have built on.

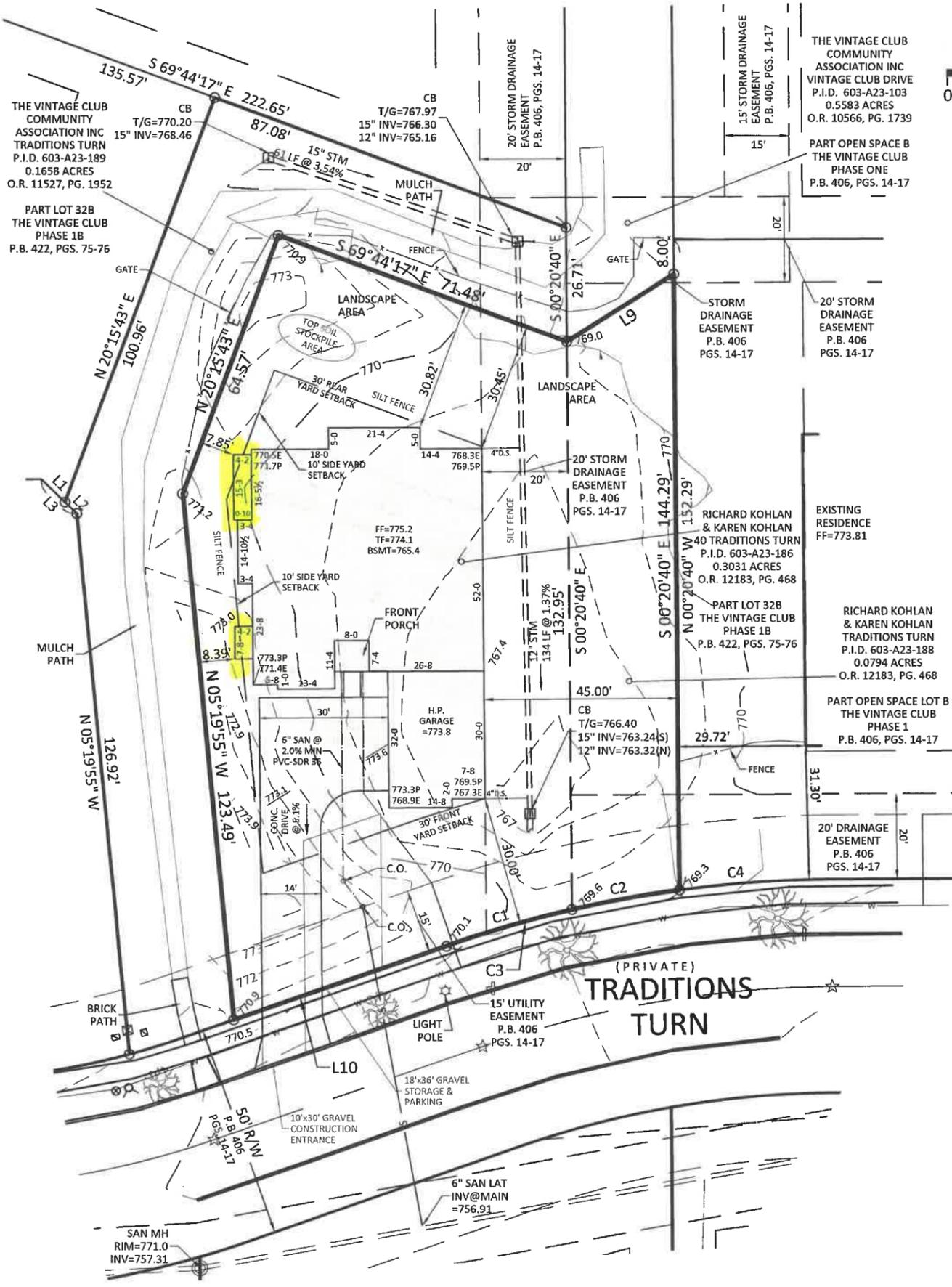
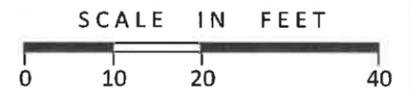
NOTES

BEARINGS BASED ON THE OHIO STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD83 (GROUND).

OCCUPATION IN GENERAL FITS SURVEY EXCEPT AS SHOWN.

MONUMENTS GENERALLY IN GOOD CONDITION UNLESS NOTED OTHERWISE.

EASEMENTS SHOWN HEREON WERE DISCOVERED DURING THE COURSE OF PUBLIC RECORD RESEARCH AND MAY NOT COMPRISE ALL SUCH EASEMENTS AFFECTING THE SUBJECT PROPERTY.



LINE TABLE		
Line #	BEARING	LENGTH
L9	N57°27'40"E	29.54'
L10	S70°41'16"W	52.50'

BUILDER:
ROBERT LUCKÉ GROUP
 8825 CHAPEL SQUARE DRIVE
 SUITE B
 CINCINNATI, OHIO 45249
 PH. (513) 683-3300

CURVE TABLE					
Curve #	RADIUS	LENGTH	CHD LENGTH	CHD BEARING	DELTA
C1	275.00'	30.41'	30.40'	S73°50'53"W	6°20'10"
C2	275.00'	25.39'	25.39'	S79°39'41"W	5°17'27"
C3	275.00'	55.81'	55.71'	S76°29'36"W	11°37'37"
C4	275.00'	35.48'	35.46'	S86°00'11"W	7°23'33"
C5	325.00'	57.37'	57.30'	S4°45'24"W	10°06'52"
C6	575.00'	41.86'	41.85'	N7°43'43"E	4°10'16"

PHASE 2
FINAL IMPROVEMENTS
40 TRADITIONS TURN
0.3825 ACRES

SECTION 36, TOWN 5, ENTIRE RANGE 1
 MIAMI PURCHASE, SYMMES TOWNSHIP
 CITY OF MONTGOMERY, HAMILTON COUNTY, OHIO

Date: OCTOBER 29, 2024
 Scale: 1" = 30'
 Drawn By: HAS Proj. Mgr.: LHJ
 Survey Database: 04308
 DWG: 04308003-BAS-BP-CON LOT 32B
 X-Ref(s):
 Project Number: 24200.43
 File No.: 04308 Sheet No.: 2 / 3



■ Architecture 3700 Park 42 Drive Suite 190B
 ■ Engineering Cincinnati OH 45241
 ■ Landscape Architecture Phone 513.759.0004
 ■ Planning www.mspsdesign.com
 ■ Surveying

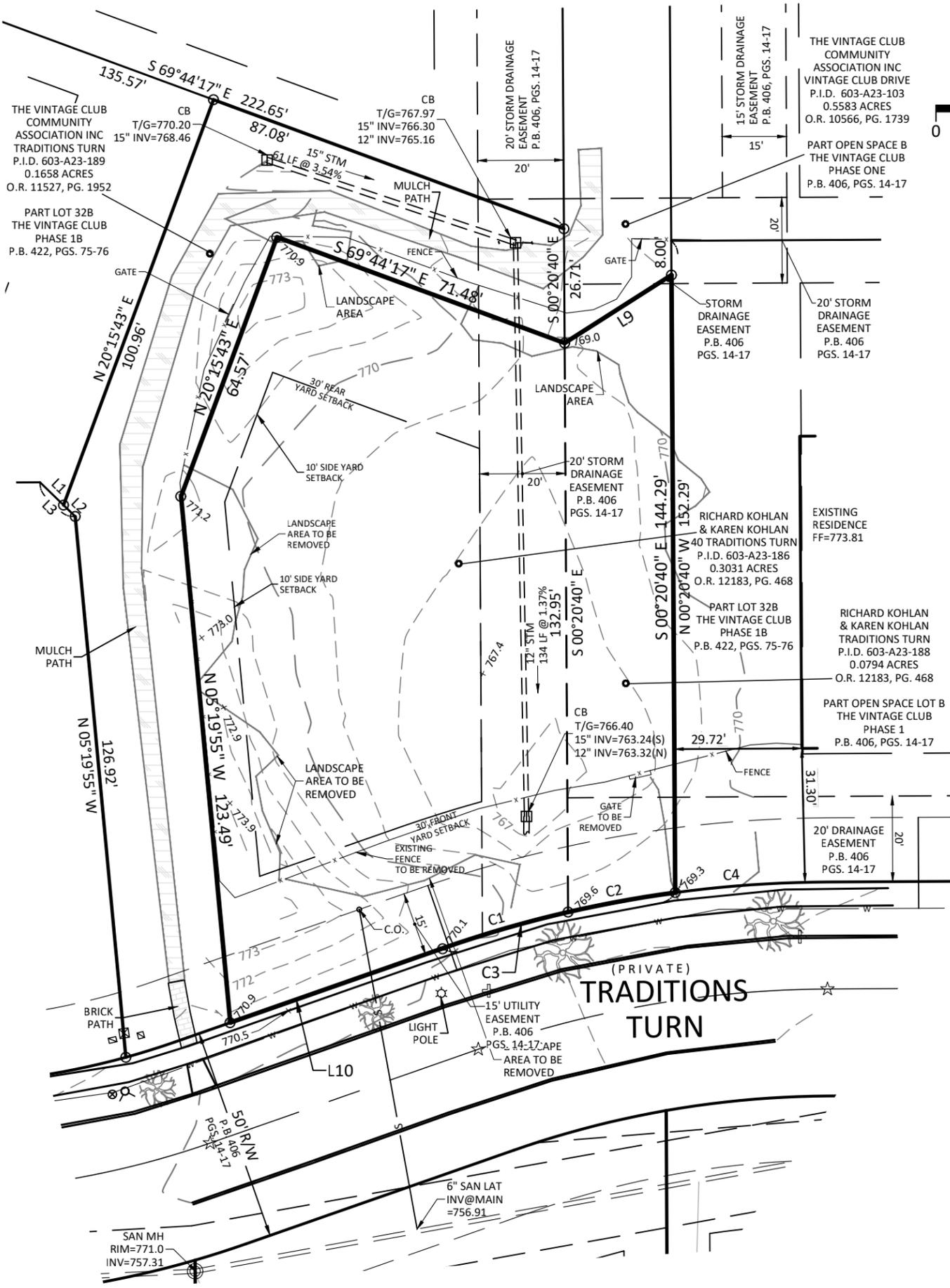
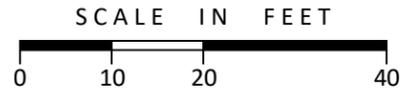
NOTES

BEARINGS BASED ON THE OHIO STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD83 (GROUND).

OCCUPATION IN GENERAL FITS SURVEY EXCEPT AS SHOWN.

MONUMENTS GENERALLY IN GOOD CONDITION UNLESS NOTED OTHERWISE.

EASEMENTS SHOWN HEREON WERE DISCOVERED DURING THE COURSE OF PUBLIC RECORD RESEARCH AND MAY NOT COMPRISE ALL SUCH EASEMENTS AFFECTING THE SUBJECT PROPERTY.



LINE TABLE		
Line #	BEARING	LENGTH
L9	N57°27'40"E	29.54'
L10	S70°41'16"W	52.50'

BUILDER:
ROBERT LUCKÉ GROUP
 8825 CHAPEL SQUARE DRIVE
 SUITE B
 CINCINNATI, OHIO 45249
 PH. (513) 683-3300

PHASE 1
TOPOGRAPHIC SURVEY
& DEMOLITION PLAN
40 TRADITIONS TURN
0.3825 ACRES

SECTION 36, TOWN 5, ENTIRE RANGE 1
 MIAMI PURCHASE, SYMMES TOWNSHIP
 CITY OF MONTGOMERY, HAMILTON COUNTY, OHIO

CURVE TABLE					
Curve #	RADIUS	LENGTH	CHD LENGTH	CHD BEARING	DELTA
C1	275.00'	30.41'	30.40'	S73°50'53"W	6°20'10"
C2	275.00'	25.39'	25.39'	S79°39'41"W	5°17'27"
C3	275.00'	55.81'	55.71'	S76°29'36"W	11°37'37"
C4	275.00'	35.48'	35.46'	S86°00'11"W	7°23'33"
C5	325.00'	57.37'	57.30'	S4°45'24"W	10°06'52"
C6	575.00'	41.86'	41.85'	N7°43'43"E	4°10'16"

Date	OCTOBER 29, 2024
Scale	1" = 30'
Drawn By	HAS
Proj. Mgr.	LJH
Survey Database	04308
DWG	04308003-BAS-BP-CON LOT 32B
X-Ref(s)	
Project Number	24200.43
File No.	04308
Sheet No.	1 / 3

MSP
DESIGN
McGill Smith Punshon

- Architecture
- Engineering
- Landscape Architecture
- Planning
- Surveying

3700 Park 42 Drive
 Suite 190B
 Cincinnati OH 45241
 Phone 513.759.0004
 www.mspdesign.com

N:\land projects\04000\04308\dwg\04308003-BAS-BP-CON LOT 32B.dwg, Phase 1, 10/29/2024 5:21:34 PM, holly schaefer

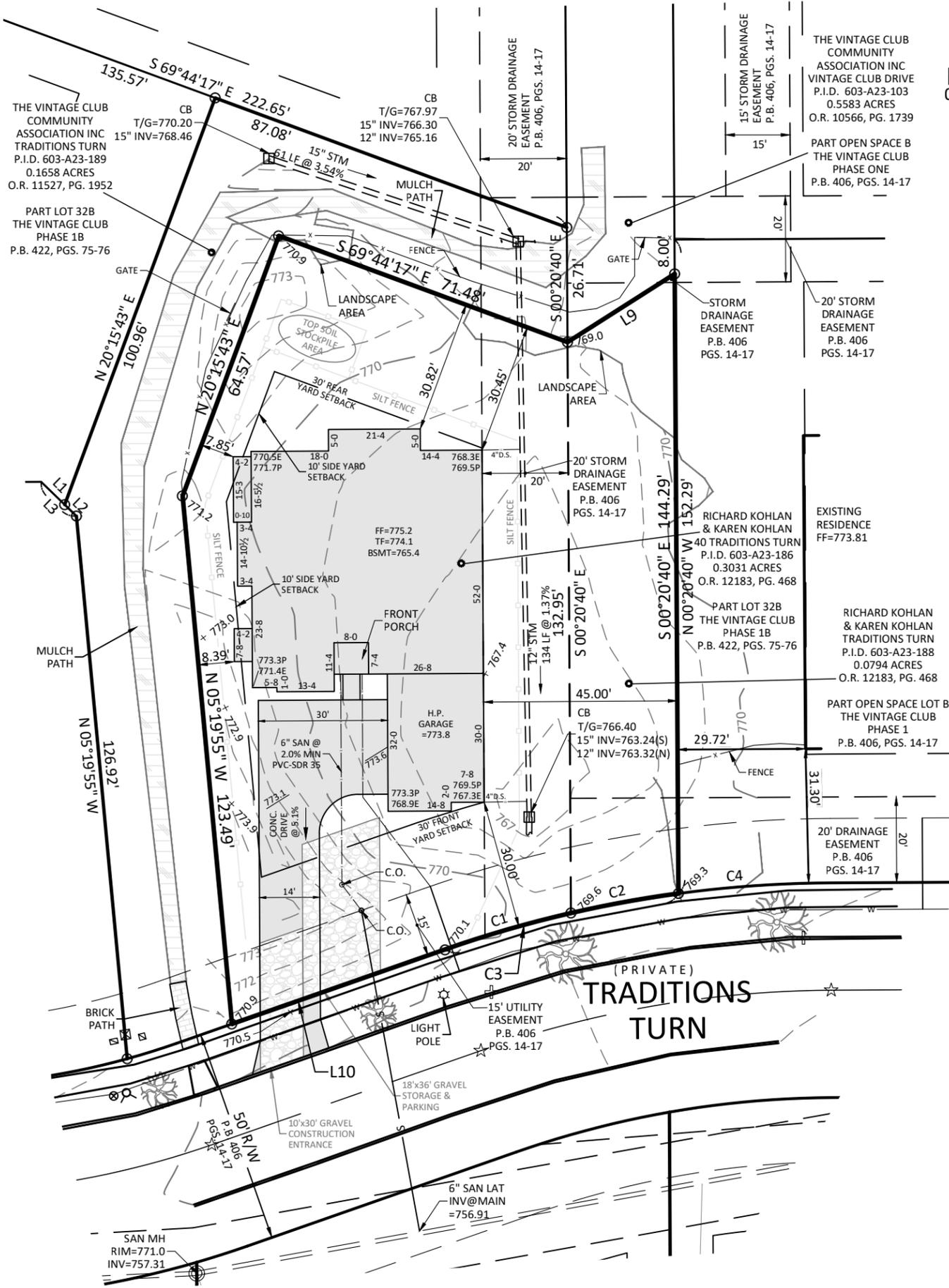
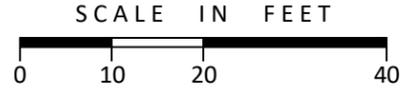
NOTES

BEARINGS BASED ON THE OHIO STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD83 (GROUND).

OCCUPATION IN GENERAL FITS SURVEY EXCEPT AS SHOWN.

MONUMENTS GENERALLY IN GOOD CONDITION UNLESS NOTED OTHERWISE.

EASEMENTS SHOWN HEREON WERE DISCOVERED DURING THE COURSE OF PUBLIC RECORD RESEARCH AND MAY NOT COMPRISE ALL SUCH EASEMENTS AFFECTING THE SUBJECT PROPERTY.



LINE TABLE		
Line #	BEARING	LENGTH
L9	N57°27'40\"E	29.54'
L10	S70°41'16\"W	52.50'

BUILDER:
ROBERT LUCKÉ GROUP
 8825 CHAPEL SQUARE DRIVE
 SUITE B
 CINCINNATI, OHIO 45249
 PH. (513) 683-3300

PHASE 2
 FINAL IMPROVEMENTS
40 TRADITIONS TURN
 0.3825 ACRES

SECTION 36, TOWN 5, ENTIRE RANGE 1
 MIAMI PURCHASE, SYMMES TOWNSHIP
 CITY OF MONTGOMERY, HAMILTON COUNTY, OHIO

CURVE TABLE					
Curve #	RADIUS	LENGTH	CHD LENGTH	CHD BEARING	DELTA
C1	275.00'	30.41'	30.40'	S73°50'53\"W	6°20'10\"
C2	275.00'	25.39'	25.39'	S79°39'41\"W	5°17'27\"
C3	275.00'	55.81'	55.71'	S76°29'36\"W	11°37'37\"
C4	275.00'	35.48'	35.46'	S86°00'11\"W	7°23'33\"
C5	325.00'	57.37'	57.30'	S4°45'24\"W	10°06'52\"
C6	575.00'	41.86'	41.85'	N7°43'43\"E	4°10'16\"

Date OCTOBER 29, 2024
 Scale 1" = 30'
 Drawn By HAS Proj. Mgr. LJH
 Survey Database 04308
 DWG 04308003-BAS-BP-CON LOT 32B
 X-Ref(s) _____
 Project Number 24200.43
 File No. 04308 Sheet No. 2 / 3



■ Architecture 3700 Park 42 Drive
 ■ Engineering Suite 190B
 ■ Landscape Architecture Cincinnati OH 45241
 ■ Planning Phone 513.759.0004
 ■ Surveying www.mspdesign.com

NOTES :

CONTRACTOR TO VERIFY ALL DIMENSIONS SHOWN HEREON AGAINST ARCHITECTURAL PLANS PRIOR TO ANY CONSTRUCTION.

IMPERVIOUS AREA OF FRONT YARD =28%

THE RECOMMENDED SITING OF THE HOUSE AS SHOWN ON THIS PLAT MAKES NO REPRESENTATION AS TO EXISTING SOIL CONDITION. A GEOTECHNICAL ENGINEER SHOULD BE CONSULTED IN ALL MATTERS PERTAINING TO SUB-SURFACE CONDITIONS AND FOUNDATION REQUIREMENTS.

THE BUILDER SHALL CONSULT WITH THE CONVENING AUTHORITY REGARDING THE FINAL ALIGNMENT AND OUTLET METHOD OF THE DOWNSPOUTS.

SANITARY LATERAL LOCATION AND ELEVATION TO BE FIELD VERIFIED BY BUILDER PRIOR TO CONSTRUCTION.

SANITARY LATERAL AND WATER SERVICE LOCATIONS SHOWN AT HOUSE ARE APPROXIMATE. COORDINATE EXACT LOCATION WITH APPROPRIATE UTILITY COMPANY.

SANITARY SEWER CONNECTION TO BE 6" DIAMETER @ 2.0% MINIMUM, CONSTRUCTED OF PVC-SDR 35

TAP PERMIT AND FEES ARE NECESSARY FROM M.S.D.

BUILDER SHALL FIELD VERIFY ALL LOCATIONS AND INVERTS OF EXISTING UTILITIES AND IMMEDIATELY NOTIFY THE ENGINEER IF EXISTING UTILITIES INTERFERE WITH THE NORMAL INTENT OF THE PROPOSED UTILITY LAYOUT.

SERVICE UTILITY MATERIALS SHALL BE PER THE APPROPRIATE UTILITY COMPANY DESIGN CRITERIA.

IF LOWEST FLOOR ELEVATION IS BELOW RIM ELEVATION OF UPSTREAM MANHOLE THEN TAP MUST HAVE BACK-FLOW PREVENTOR OR BE PUMPED TO GRAVITY SEWER.

DRIVEWAY APPROACH TO BE CONSTRUCTED AS PER CITY OF MONTGOMERY ENGINEERING SPECIFICATIONS.

SIDEWALK TO BE 5" THICK CLASS "C" CONCRETE, 7" THICK AT DRIVEWAY CROSSINGS. DRIVEWAY APRON TO BE 7" THICK WITH FLARES.

FINISHED GRADE SHALL SLOPE A MINIMUM OF 6" IN FIRST 10' FROM NEW FOUNDATION AND FINISHED GRADE PORTION OF THE SITE SHALL HAVE A MAX SLOPE OF 3:1.

SEDIMENT CONTROL MEASURES ARE TO BE CONTINUOUSLY MAINTAINED BY THE DEVELOPER UNTIL ALL DANGERS OF EROSION AND/OR SEDIMENTATION OCCURRING HAS BEEN ELIMINATED.

DUMPSTERS AND PORT-O-LETS ARE NOT TO BE CLOSER THAN 20 FEET FROM THE EDGE OF STREET PAVEMENT.

Specifications for Permanent Seeding

SITE PREPARATION

1. A subsoiler, plow or other implement shall be used to reduce soil compaction and allow maximum infiltration. (Maximizing infiltration will help control both runoff rate and water quality.) Subsoiling should be done when the soil moisture is low enough to allow the soil to crack or fracture. Subsoiling shall not be done on slip-prone areas where soil preparation should be limited to what is necessary for establishing vegetation.

2. The site shall be graded as needed to permit the use of conventional equipment for seedbed preparation and seeding.

3. Resoil shall be applied where needed to establish vegetation.

SEEDBED PREPARATION

1. Lime-Agricultural ground limestone shall be applied to acid soil as recommended by a soil test. In lieu of a soil test, lime shall be applied at the rate of 100 lbs./1,000 sq. ft. or 2 tons/ac.

2. Fertilizer-Fertilizer shall be applied as recommended by a soil test. In lieu of a soil test, fertilizer shall be applied at a rate of 12 lb./1,000 sq. ft. or 500 lb./ac of 10-10-10 or 12-12-12 analysis.

3. The lime and fertilizer shall be worked into the soil with a disk harrow, spring-tooth harrow, or other suitable field implement to a depth of 3 in. On sloping land the soil shall be worked on the contour.

SEEDING DATES AND SOIL CONDITIONS

Seeding should be done March 1 to May 31 or Aug. 1 to September 30. These seeding dates are ideal but, with the use of additional mulch and irrigation, seedings may be made any time throughout the growing season. Tillage/seedbed preparation should be done when the soil is dry enough to crumble and not form ribbons when compressed by hand. For winter seeding, see the following section on dormant seeding.

DORMANT SEEDINGS

1. Seedings shall not be planted from October 1 through November 20. During this period the seeds are likely to germinate, but probably will not be able to survive the winter.

2. The following methods may be used for "Dormant Seeding":

* From October 1 through November 20, prepare the seedbed, and the required amounts of lime and fertilizer, then mulch and anchor. After November 20, and before March 15, broadcast the selected seed mixture, mulch and anchor. Increase the seeding rates by 50% for this type of seeding.

* From November 20 through March 15, when soil conditions permit, prepare the seedbed, lime and fertilizer, apply the selected seed mixture, mulch and anchor. Increase the seeding rates by 50% for this type of seeding.

* Apply seed uniformly with a cyclone seeder, drill, cultipacker seeder, or hydro-seeder (slurry may include seed and fertilizer) on a firm, moist seedbed.

* Where feasible, except when a cultipacker type seeder is used, the seedbed should be firmed following seeding operations with a cultipacker, roller or light drag. On sloping land, seeding operations should be on the contour where feasible.

* Hydroseeders-If wood cellulose fiber is used, it shall be used at 2,000 lb./ac or 46 lb./1,000 sq. ft.

MULCHING

1. Mulch material shall be applied immediately after seeding. Seedings made during optimum seeding dates and with favorable soil conditions and on very flat areas may not need mulch to achieve adequate stabilization. Dormant seeding shall be mulched.

2. Materials:

* Straw-If straw is used it shall be unrotted small-grain straw applied at the rate of 2 tons/ac. or 90 lb./1,000 sq. ft. (two to three bales). The mulch shall be spread uniformly by hand or mechanically so the soil surface is covered. For uniform distribution of hand-spread mulch, divide area into approximately 1,000-sq.-ft. sections and spread two 45-lb. bales of straw in each section.

* Other-Other acceptable mulches include mulch matings applied according to manufacturer's recommendations or wood chips applied at 6 tons/ac.

3. Straw Mulch Anchoring Methods

Straw mulch shall be anchored immediately to minimize loss by wind or water.

* Mechanical-A disk, crimper, or similar type tool shall be set straight to punch or anchor the mulch material into the soil. Straw mechanically anchored shall not be finely chopped but, generally, be left longer than 6 in.

* Mulch Nettings-Netting shall be used according to the manufacturer's recommendations. Netting may be necessary to hold mulch in place in areas of concentrated runoff and on critical slopes.

* Asphalt Emulsion-Asphalt shall be applied as recommended by the manufacturer or at the rate of 160 gal./ac.

* Synthetic Binders-Synthetic binders such as Acrylic DLR (Agri-Tac), DCA-70, Petroset, Terra Tack or equivalent may be used at rates recommended by manufacturer.

* Wood Cellulose Fiber-Wood cellulose fiber binder shall be applied at a net dry weight of 750 lb./ac. The wood cellulose fiber shall be mixed with water and the mixture shall contain a maximum of 50 lbs./100 gal.

IRRIGATION

1. Permanent seeding shall include irrigation to establish vegetation during dry or hot weather or on adverse site conditions as needed for adequate moisture for seed germination and plant growth.

2. Excessive irrigation rates shall be avoided and irrigation monitored to prevent erosion and damage from runoff.

NOTES
40 TRADITIONS TURN

0.3825 ACRES

SECTION 36, TOWN 5, ENTIRE RANGE 1
MIAMI PURCHASE, SYMMES TOWNSHIP
CITY OF MONTGOMERY
HAMILTON COUNTY, OHIO

BUILDER:
ROBERT LUCKE GROUP
8825 CHAPEL SQUARE DRIVE
SUITE B
CINCINNATI, OHIO 45249
PH. (513) 683-3300

Specifications for Permanent Seeding

1. Permanent seeding shall not be considered established for at least 1 full year from the time of planting. Seeded areas shall be inspected for failure and reestablished as needed. Depending on site conditions, it may be necessary to irrigate, fertilize, overseed, or reestablish plantings in order to provide permanent vegetation for adequate erosion control.

2. Maintenance fertilization rates shall be established by soil test recommendations or by using the rates shown in the following table.

Maintenance for Permanent Seedings Fertilization and Mowing					
Mixture	Formula	lb./ac.	lb./1,000 ft. ²	Time	Mowing
Creeping Red Fescue Ryegrass Kentucky Bluegrass	10-10-10	500	12	Fall, yearly or as needed.	Not closer than 3"
Tall Fescue	10-10-10	500	12		Not closer than 4"
Dwarf Fescue	10-10-10	500	12		Not closer than 2"
Crown Verch Fescue	0-20-20	400	10	Spring, yearly following establish- ment and every 4-7 yr. thereafter.	Do not mow
Flat Pea Fescue	0-20-20	400	10		Do not mow

Note: Following soil test recommendations is preferred to fertilizer rates shown above.

Specifications for Mulching

1. Mulch and/or other appropriate vegetative practices shall be applied to disturbed areas within 7 days of grading if the area is to remain dormant (undisturbed) for more than 45 days or on areas and portions of the site which can be brought to final grade.

2. Mulch shall consist of one of the following:

* Straw-Straw shall be unrotted small-grain straw applied at the rate of 2 tons/ac. or 90 lbs./1,000 sq. ft. (two to three bales). The mulch shall be spread uniformly by hand or mechanically so the soil surface is covered. For uniform distribution of hand-spread mulch, divide area into approximately 1,000 sq. ft. sections and spread two 45 lb. bales of straw in each section.

* Hydroseeders-Wood cellulose fiber should be used at 2,000 lb./ac. or 46 lbs./1,000 sq. ft.

* Other-Other acceptable mulches include mulch matting applied according to manufacturer's recommendations or wood chips applied at 10-20 tons/ac.

3. Mulch Anchoring-Mulch shall be anchored immediately to minimize loss by wind or runoff. The following are accepted methods for anchoring mulch:

* Mechanical-Use a disk, crimper, or similar type tool set straight to punch or anchor the mulch material into the soil. Straw mechanically anchored shall not be finely chopped but generally be left longer than 6 in.

* Mulch Nettings-Use according to the manufacturer's recommendations, following all placement and anchoring suggestions. Use in areas of water concentration and steep slopes to hold mulch in place.

* Asphalt Emulsion-For straw mulch, apply at the rate of 160 gal./ac. (0.1 gal./sq) into the mulch as it is being applied or as recommended by the manufacturer.

* Synthetic Binders-For straw mulch, synthetic binders such as Acrylic DLR (Agri-Tac), DCA-70, Petroset, Terra Tack or equivalent may be used at rates recommended by manufacturer.

* Wood Cellulose Fiber-Wood cellulose fiber may be used for anchoring straw. The fiber binder shall be applied at a net dry weight of 750 lb./acre. The wood cellulose fiber shall be mixed with water and the mixture shall contain a maximum of 50 lbs./100 gal.

Date	OCTOBER 29, 2024
Scale	1" = 30'
Drawn By	HAS Proj. Mgr. LJH
Survey Database	04308
DWG	04308003-BAS-BP-CON LOT 32B
X-Ref(s)	
Project Number	24200.43
File No.	04308 Sheet No. 3 / 3



Architecture 3700 Park 42 Drive
Engineering Suite 190B
Landscape Architecture Cincinnati OH 45241
Planning Phone 513.759.0004
Surveying www.mspdesign.com

Proposed Residence
Nick Mirkopoulos
Cathy Cooke
Residence



8825 Chapelsquare Lane #B
Cincinnati, Ohio 45249
(513) 683-3300

Contractor

Revision Record

Rev	Description
	REVISED 9/5/2024
	PLAN REVIEW 10/24/2024
	PERMIT SET 11/19/2024

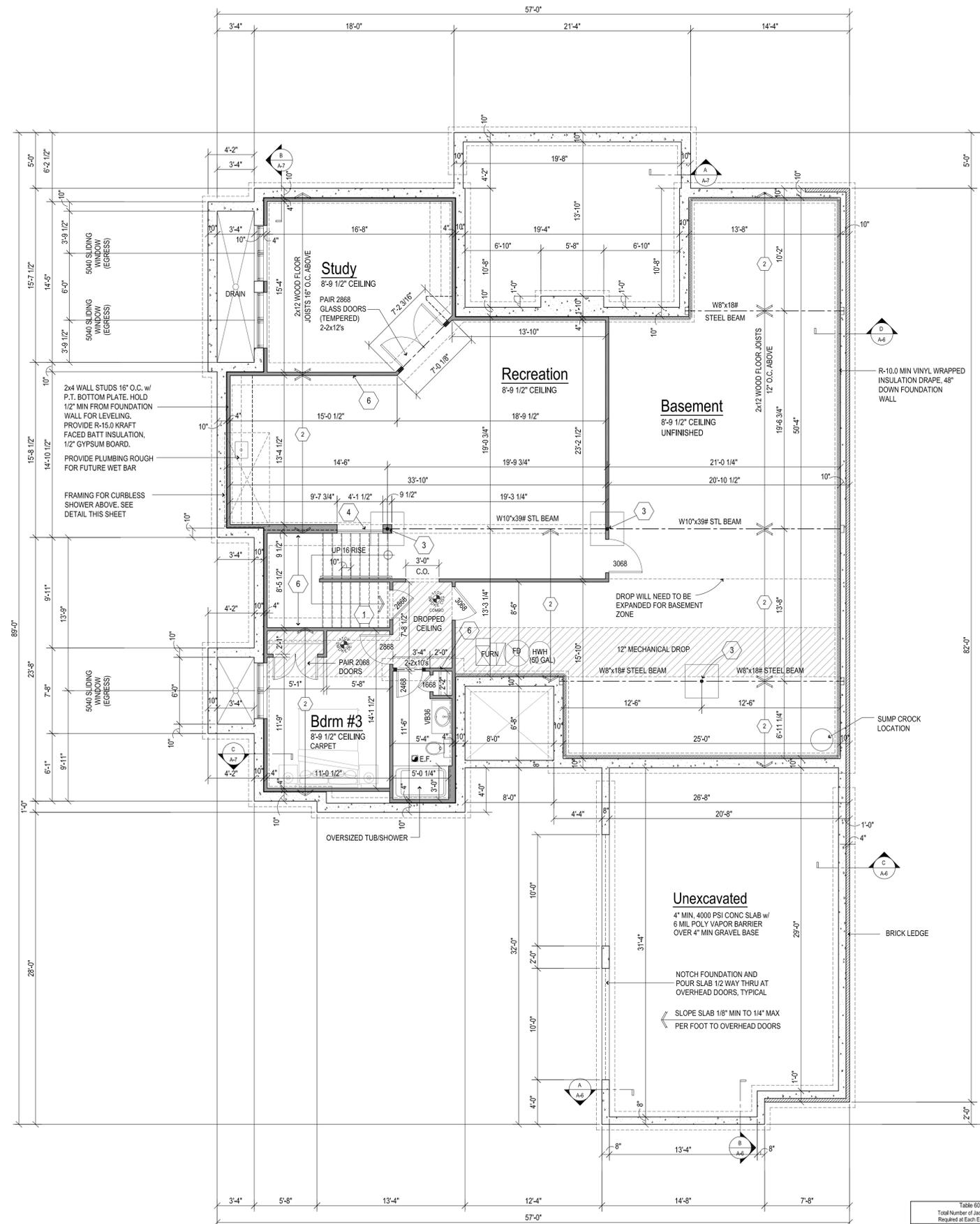
Description
Foundation Plan

A-3

THIS DOCUMENT IS NOT TO BE SCALED.
THE MAKER OF THESE DOCUMENTS DOES
NOT WARRANT INFORMATION COLLECTED BY
SCALING. IF NECESSARY, DESIGNER SHALL
BE NOTIFIED OF MISSING OR DISCREPANT
NOTES AND DIMENSIONS

Key Notes

- 1 1/2" GYPSUM ON ALL SURFACES BENEATH STEPS IN FINISHED AREAS
- 2 2x12 WOOD FLOOR JOISTS 16" O.C. ABOVE
- 3 3"Ø I.D. SCHEDULE 40 STEEL PIPE COLUMN ON 3'-0" x 3'-0" x 1'-6" CONCRETE FOOTING w/ (3) #4 BARS E.W. 4 PLACES
- 4 34"-38" HEIGHT HANDRAIL w/ BALUSTERS LESS THAN 4" APART
- 5 34"-38" HEIGHT WALL MOUNTED HANDRAIL w/ RETURNS TO WALL AT BOTH ENDS
- 6 2x4 WOOD LOAD BEARING WALL ON 2'-0" WIDE x 12" THICK CONTS SPREAD FOOTING OR THICKENED SLAB w/ (2) #4 BARS



1 **Foundation Plan** 1200 FINISHED SQ FEET
SCALE 3/16" = 1'-0"
INSULATE CEILINGS ABOVE ALL FINISHED AREAS
ROUGH FOR WATER SOFTENER

Table 603.7(1)
Total Number of Jack and King Studs Required at Each End of an Opening

Size of Opening	No. of Jack Studs	No. of King Studs
Up to 5'-6"	1	1
>5'-6" to 5'-0"	1	2
>5'-0" to 5'-6"	2	2
>5'-6" to 8'-0"	2	2
>8'-0" to 10'-6"	2	3
>10'-6" to 12'-0"	3	3
>12'-0" to 13'-0"	3	3
>13'-0" to 14'-0"	3	4
>14'-0" to 16'-0"	3	4
>16'-0" to 18'-0"	4	4

Proposed Residence
**Nick Mirkopoulos
Cathy Cooke
Residence**



8825 Chapelsquare Lane #B
Cincinnati, Ohio 45249
(513) 683-3300

Contractor

Revision Record

Rev	Description
	REVISED 9/5/2024
	PLAN REVIEW 10/24/2024
	PERMIT SET 11/19/2024

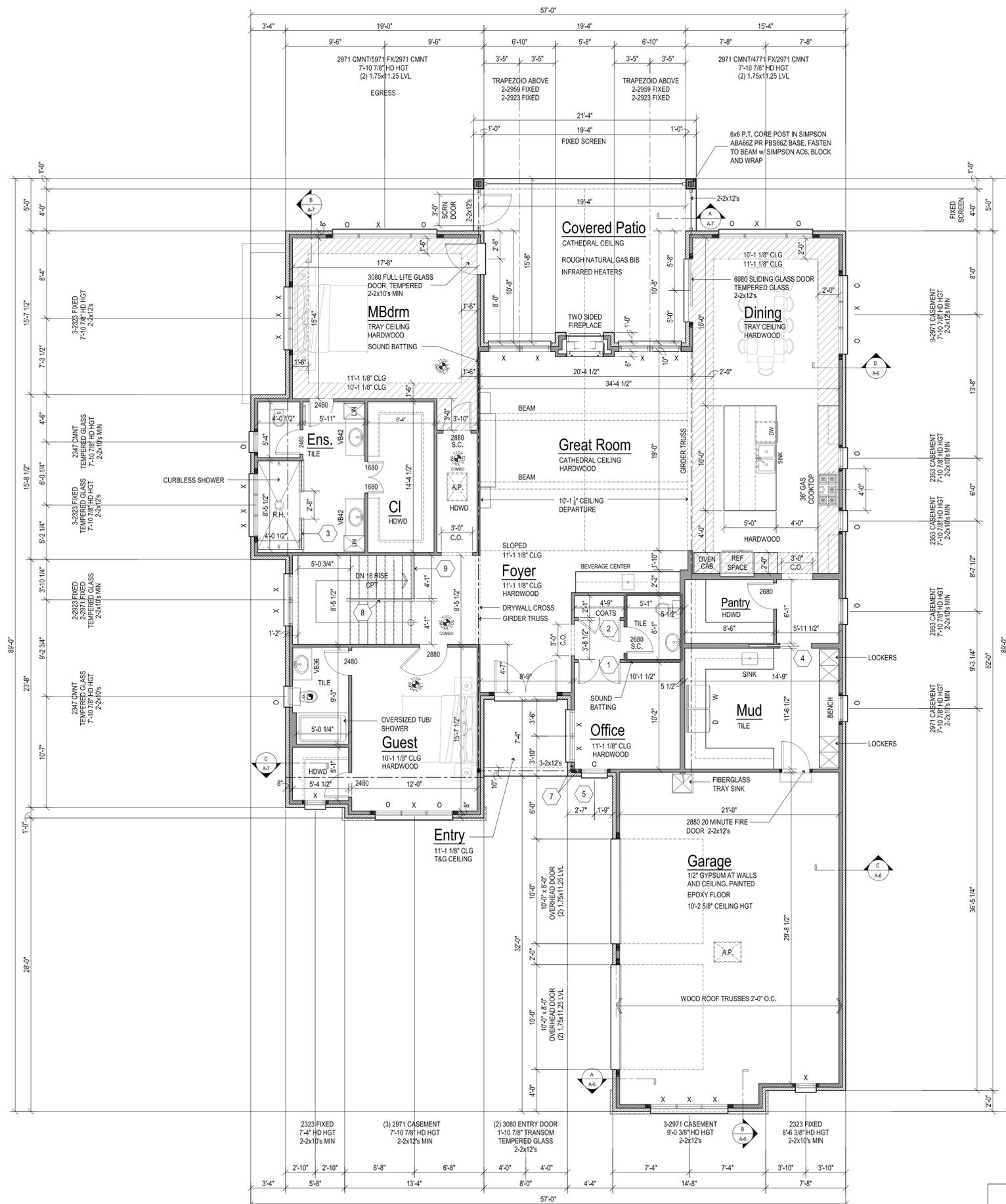
Description
First Floor Plan

A-4

THIS DOCUMENT IS NOT TO BE SCALED.
THE MAKER OF THESE DOCUMENTS DOES
NOT WARRANT INFORMATION COLLECTED BY
SCALING. IF NECESSARY, DESIGNER SHALL
BE NOTIFIED OF MISSING OR DISCREPANT
NOTES AND DIMENSIONS

Key Notes

- 1 PAIR 2080 GLASS DOORS
TEMPERED GLASS, BALL
CATCHES
- 2 PAIR 2080 DOORS.
BALL CATCHES
- 3 TILE KNEE WALL w/
FRAMELESS GLASS PANELS
(TEMPERED)
- 4 3080 POCKET DOOR
- 5 2971 CMNT, 1'-10 7/8" TRANSOM
- 6 2-2971 CMNT, 1'-10 7/8" TRANSOMS
- 7 11'-1 1/8" PANEL HGT, 2x4 STUDS 12" O.C.
- 8 34"-38" HEIGHT HANDRAIL w/
BALUSTERS LESS THAN
4" APART
- 9 36" HGT GUARDRAIL w/
BALUSTERS LESS THAN
4" APART



1 **First Floor Plan** 2648 FINISHED SQ FEET
SCALE 3/16" = 1'-0"

Table 603.7(1)
Total Number of Jack and King Studs
Required at Each End of an Opening

Size of Opening	No. of Jack Studs	No. of King Studs
Up to 3'-6"	1	1
>3'-6" to 5'-0"	1	2
>5'-0" to 5'-6"	2	2
>5'-6" to 8'-0"	2	2
>8'-0" to 10'-6"	2	3
>10'-6" to 12'-0"	3	3
>12'-0" to 13'-0"	3	3
>13'-0" to 14'-0"	3	4
>14'-0" to 15'-0"	3	4
>15'-0" to 18'-0"	4	4

Proposed Residence
Nick Mirkopoulos
Cathy Cooke
Residence



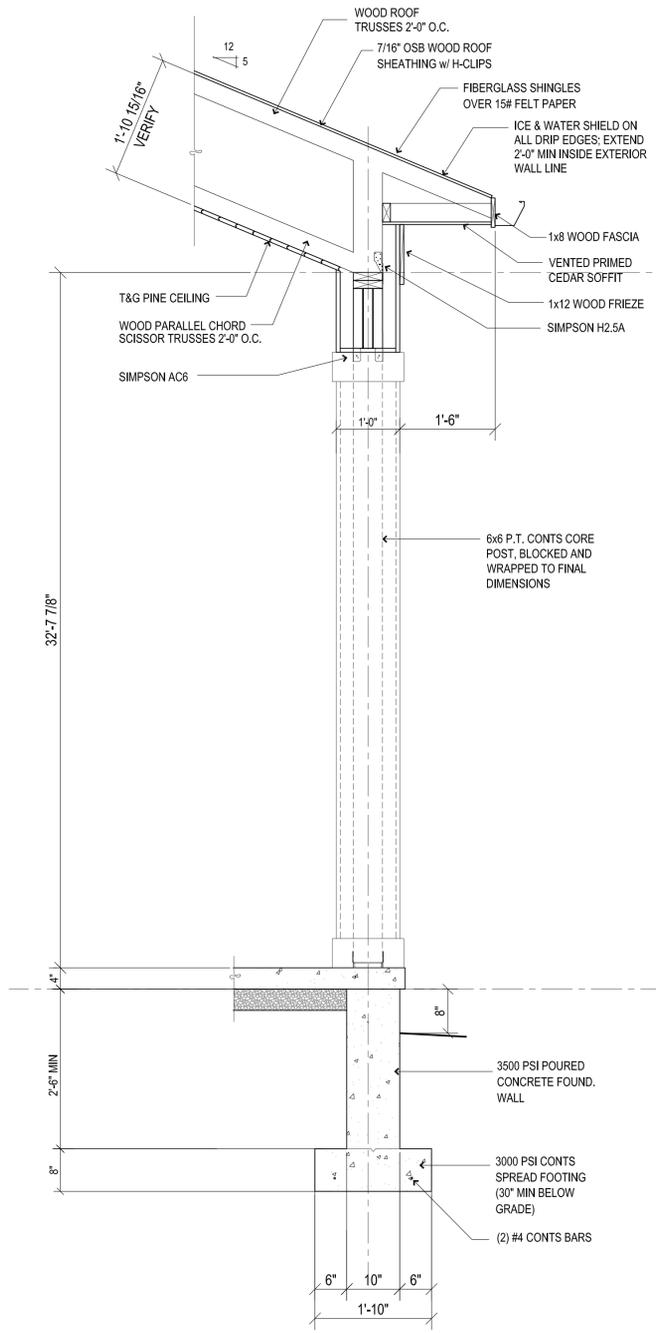
Contractor

Revision Record	
Rev	Description
	REVISED 9/5/2024
	PLAN REVIEW 10/24/2024
	PERMIT SET 11/19/2024

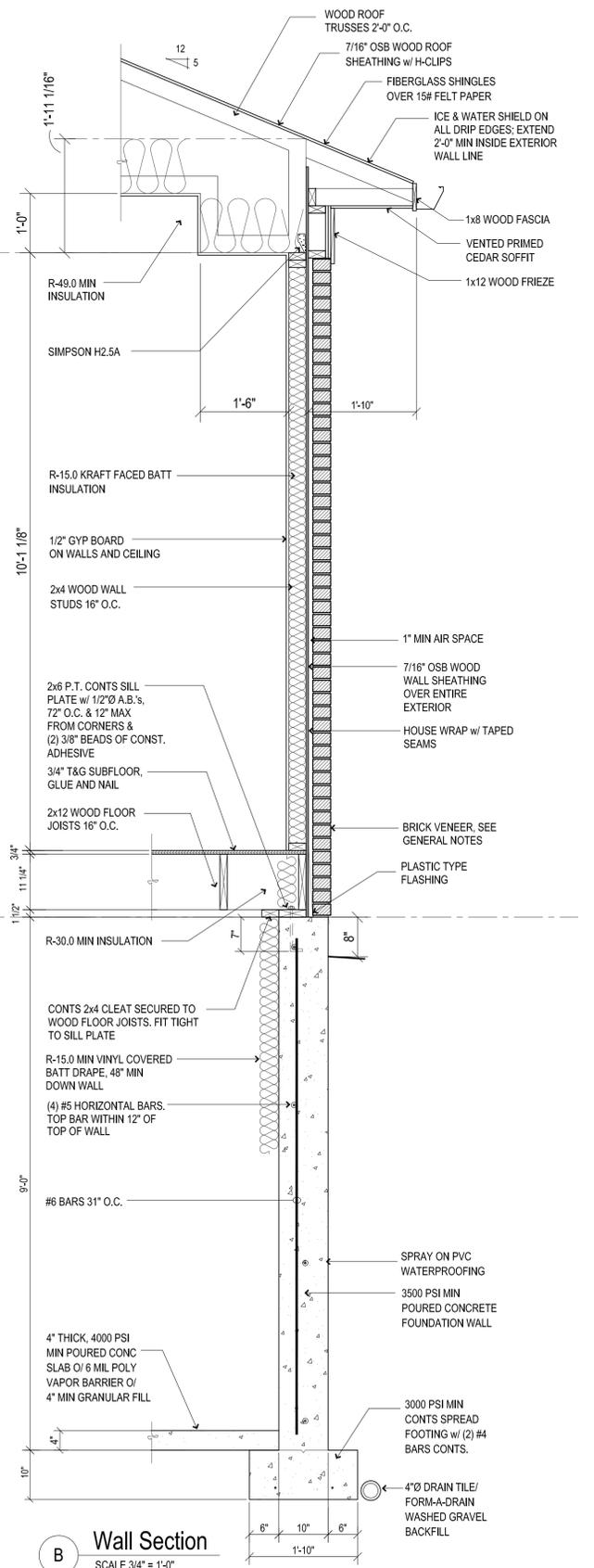
Description
Sections

A-7

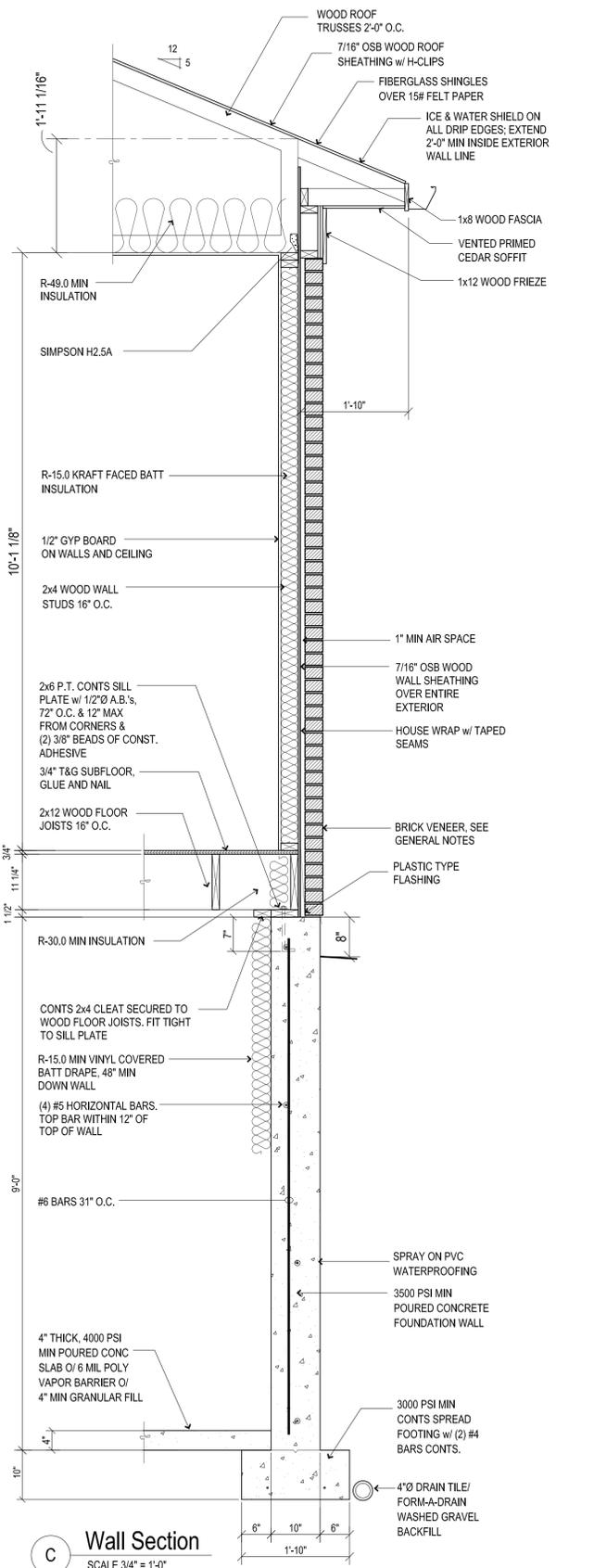
THIS DOCUMENT IS NOT TO BE SCALED.
THE MAKER OF THESE DOCUMENTS DOES
NOT WARRANT INFORMATION COLLECTED BY
SCALING. IF NECESSARY, DESIGNER SHALL
BE NOTIFIED OF MISSING OR DISCREPANT
NOTES AND DIMENSIONS



A Wall Section
SCALE 3/4" = 1'-0"



B Wall Section
SCALE 3/4" = 1'-0"



C Wall Section
SCALE 3/4" = 1'-0"

EXHIBIT D

VINTAGE CLUB OF MONTGOMERY STATEMENT OF CONDITIONS & EXCEPTIONS ESTABLISHED AS THE STANDARDS IN THE PLANNED UNIT DEVELOPMENT DISTRICT

REVISED April 22, 2019

General Conditions for the PUD

1. Streets shown on the general development plan will be private streets, with street widths of 25' from back of curb to back of curb along roads B,C,D; 22' along road F and the drives, and 22'-25' for road E. Streets will be built to City subdivision standards, with the exception of the street plazas. The main access drive from the commercial section to the connection with the Kemper Road access drive will have chair back curbs, or ODOT Type 6 vertical curb, all other curbs at discretion of applicant.
2. The width of linear open space reserved for walking paths will be a minimum of 15'. The path itself may be of mulch, wood chips, or limestone. The open space for the tree line that runs north to south through the east side of the property in the estate section will be 25' wide. There will be a physical delineation of the borders of the hiker/biker trails.
3. Street lights will be provided throughout the residential neighborhoods.
4. Street trees will be provided at intervals of 65' or less along all of the streets.
5. 5' wide sidewalks will be provided along Road B and the Kemper Road entry road. Four foot wide (minimum width) will be provided throughout the other residential neighborhoods.
6. The side of all the roads and drives which have fire hydrants will be marked as 'no parking, fire lane'.
7. The gates used to block Road B and Road C will meet the emergency access requirements specified by the Montgomery police and fire chiefs.
8. There will be 13.95262 acres of open space and 11,540 sq. ft. of bonus area open space as designated on the open space plan submitted by Great Traditions.
9. Great Traditions will provide an addition 4,100 square feet of open space in a later section of the development, subject to the final development plan of that section.

10. In addition to standard Hamilton County storm water management plans, the applicant will adhere to the following:
 - a. Will adhere to Ohio EPA post construction runoff guidelines as indicated in permit OHC000002;
 - b. Develop storm water pollution prevention plans as indicated in Ohio EPA permit;
 - c. Adhere to Section 404 of the Clean Water Act as administered by the Army Corps of Engineers;
 - d. Adhere to Section 401 of the Clean Water Act as administered by OEPA.
 - e. Great Traditions will work with CDS Associates to determine the best management practices that will be used to address NPDES Phase II regulations, including the following methods which the applicant has indicated could be acceptable to them: fore bay in the central detention area, modifications of the detention basins to delay release and allow settling of pollutants in the basin, and various pretreatment options in the proposed greenspace areas. It is acknowledged that surface drainage from property to the north of the site would not be subject to any water quality bmp's.

11. As part of Phase I, the intersection of Road C and Kemper Road will be improved. A left turn lane, both eastbound and west bound, will be constructed. A cross walk will be provided on the east side of the intersection. A right turn lane onto Road C from east bound Kemper will be provided if it is determined to be necessary for the permanent long term safety and efficiency of Kemper Road travel by CDS and the Public Works Director.

12. The Christ Hospital shall be considered an adjacent property owner for notification purposes.

13. The Christ Hospital shall be considered an adjacent property owner to entitle the Hospital to have standing to appeal or take other legal actions with regard to decisions of the Montgomery Planning Commission and City regarding modifications to the Plan or approval of Final Development Plans.

Residential 'A' Estate Section

The regulations for the 'A' zoning district will apply with the following conditions and variations:

1. Lots will be on private streets; therefore they will not be required to have frontage on a public right of way.
2. All of the lots abutting the Reserve will be at least 20,000 sq. ft.
3. All other lots will be a minimum of 16,000 sq. ft, except the lot at the end of the cul-de-sac of Road C (lot #22 on grading plan) which will be a minimum of 15,000 sq. ft.

4. Front yard setbacks are established at 30' from the 50' wide private right of way.
5. The side yard setback is established at 10'.
6. The rear yard setback for lots abutting the Reserve of Montgomery is 35'
7. The rear yard setback for lots abutting Weller Park or Good Shepherd is 30'
8. The rear yard setback for lots abutting internal green space is 30'.
9. Public pedestrian access will be maintained between Kemper Road and the path to Weller Park, with appropriate signage.
10. Accessory structures will maintain a 10' side and rear yard setback.
11. There will be no additional encroachments permitted in the side or front yards for attached structures.
12. Uncovered porches, terraces, decks, patios may encroach to within 10' from the rear property line.
13. Landscape plans for all the open space will be provided as part of the final development plan. A landscape buffer will be provided along the south edge of the storm water detention basin abutting the Reserve.
14. The additional requirements for panhandle lots will not apply.
15. The side yard setback for the portion of the driveway behind the front elevation of the dwelling unit and adjacent to the side-entry garage shall be 3'.
16. The portion of the driveway beyond 10' of the front elevation must be 5' from the side lot line and no driveway can exceed 12' in width, for any portion in front of that 10'.

Residential D-3: Club Section

The regulations for the D-3 zoning district will apply, with the following conditions and variations:

1. The lots will be on private streets and will not be required to have frontage on a public right of way.
2. The front yard setback will be established at 20' from the private right of way.
3. The side yard setbacks will be set at seven feet.
4. The rear yard setbacks will be set at 20'

5. The open space surrounding the club lots will be left primarily as is. A plan for the walking paths will be provided with the final development plan, and will demonstrate connections between the lake, the clubhouse, and all of the residential components.
6. The cul-de-sac for the club homes will exceed the 800' standard of the subdivision regulations.
7. The private drive at the end of Road E will be a minimum of 22' wide, and have one side designated as "No parking, fire lane" posted.
8. Driveways shall maintain a 3' setback from the side property lines.
9. Decorative fences up to 3' in height and associated with a landscape trellis or arbor are allowed in the front yard. The trellis or arbor can be up to 8'-0" in height and no section of the fence may be longer than 18'-0". Any portion of fence which exceeds 2' in height shall be parallel to the street.
10. Paving, patios, and terraces, located in the rear yard may be placed up to the rear property line; however, this exception is not granted to Lot Numbers 72, 73, 74, and 75.

Residential D-3: Courtyard Section

The regulations for the D-3 zoning district will apply, with the following conditions and variations:

1. The lots will be on private streets and will not be required to have frontage on a public right of way.
2. The minimum lot size will be 6250 sq. ft.
3. The minimum lot width will be 50'
4. The front yard setback will be 25' from back of pavement.
5. The side yard setback will be 5'.
6. The rear yard setback will be 20'.
7. The access driveway at the end of Drive B will be a minimum of 22' wide.
8. Porches, trellis', bay windows (including foundation and not to exceed 7' in width), roof overhangs, decks, stairs, chimneys, and architectural features can extend to 3' into the side yard setback.
9. Fireplaces, with or without chimneys and a maximum of 7', TV/Entertainment Centers, associated with a Fireplace and a maximum width of 7', and bay windows

may extend 3' into one front yard on a corner lot and 3' into the rear-yard setback on any lot.

10. Decorative fences up to 3' in height and associated with a landscape trellis or arbor are allowed in the front yard. The trellis or arbor can be up to 8'-0" in height and no section of the fence may be longer than 12'-0". Any portion of fence which exceeds 2' in height shall be parallel to the street.
11. Impervious surface to be no more than 50% in the front-yard for a home with a courtyard entry garage. The number of lots where the impervious surface exceeds 40%, but is less than 50% may be no more than 15 of the approved 46 Courtyard homes.
12. Below grade window wells with guardrails can extend into the side yard setback up to 4' where there is a use easement.
13. Driveways shall maintain a three foot setback for the edge of the use easement.

Residential D-3: Condominiums

The regulations for the D-3 zoning district will apply, with the following conditions and variations:

1. The height of the buildings will be sufficient to allow four stories, not to exceed 50'.
2. The design standards shall be those established for the condominiums in the LB section.

Commercial LB:

The LB section will be treated as a mixed use project and treated as a permitted use. The requirements for the LB district shall apply, with the following variations and conditions:

1. Uses: All of the uses permitted in the LB district as of the date of the enactment of the PUD will be considered permitted uses. Bars and taverns will also be considered a permitted uses. Hotels/motel may be permitted by the Planning Commission as a permitted use.
2. Density: The final development plan is limited to a maximum of 285,000 sq. ft to be distributed between office, retail, and restaurant. There will be a mix of all three uses, consistent with the attached document dated 2/24/06, 'commercial square footage analysis' by Great Traditions. There is no restriction to the number of condominiums that will be permitted provided the height and parking regulations are met.
3. Building Heights: The height of buildings that front along Montgomery Road shall meet the standard three story or 45' height limitation. For buildings in the

interior of the LB section, a maximum of four stories or 52' shall be allowed. Height shall be defined as the average of the top of the parapet walls and/or the mean of the pitched roof structures. No pitched roof element shall exceed 62' in height.

4. The parking requirements for the LB district will be flexible, and will be based on computations derived from Urban Land Institute methodology for mixed use, shared use projects. The computations will be presented to the Planning Commission for review.
5. The following guidelines established for the Montgomery Road Corridor for the area from the Heritage District to Schoolhouse will apply:
 - a. Access and circulation requirements
 - b. Screening of loading areas
 - c. Pedestrian features
 - d. Building design in relation to scale and massing.
 - e. Architectural details for facades, entrances, windows and doors, and roof types
 - f. Building materials, with the exception that accent materials may compose up to 35% of the exterior wall surface of any individual elevation.
 - g. Colors
6. Perimeter parking lot and front yard landscaping for properties fronting Montgomery Road shall meet the standards established in the Zoning Code. All other landscaping shall be in compliance with the approved General Development Plan.
7. The front-yard setback for buildings fronting Montgomery Road shall be 25' measured from the Montgomery Road right-of-way.
8. The front-yard setback for buildings fronting Vintage Club Boulevard shall be no more than 20' from Vintage Club Boulevard with the exception of building C.
9. The setbacks of the buildings in the LB section from the D-3 section is at the discretion of the applicant.
10. There shall be no front, side and rear yard setbacks for buildings within the Village Section other than the project perimeters as established in conditions 7 and 8.
11. The setback of the condominiums and/or offices from Harpers will be 25', with a minimum of 6' set aside for a landscape buffer along the frontage of the LB with Harpers.
12. There shall be no front, side or rear yard parking setbacks in the Village Section except from the project boundary line; however, properties fronting Montgomery

Road are required to meet front yard parking setback as established in the Zoning Code.

13. Parking lot lighting shall be consistent with standards established with the Zoning Code.
14. One multi-tenant monument sign shall be permitted for the Village Section along Montgomery Road that shall not exceed 11.25' or 9' in width. Each tenant panel on the monument sign shall not exceed 11 square feet in area. The monument sign shall be located out the right-of-way and shall be a minimum of 20' from the back of curb.
15. Sandwich board signs shall be permitted for tenants in buildings 1, 2, C, K and J in compliance with Section 151.3012(H) of the Montgomery Zoning Code which specifies sandwich board regulations for the Old Montgomery District.
16. For buildings 1, 2, C, K and J the maximum area permitted for signs attached to the building for each tenant unit or space shall be 1.5 square feet per lineal foot of building frontage, up to a maximum of 60 square feet. In no case shall a single tenant have more than three signs on a single façade.
17. For building 1, 2, C, K and J one additional wall sign per frontage with a secondary customer entrance facing a side or rear parking area shall be permitted. Such signs shall not exceed 0.75 square feet per lineal foot of building frontage based on the length of the secondary building frontage, up to 30 square feet. Permitted sign area may be distributed on any building frontage provided that the maximum sign allowance for the building is not exceeded and no individual sign exceeds 60 square feet in size.
18. Window signs for Buildings 1, 2, C, K and J shall not exceed 10 square feet in area. Window signs shall not be counted towards the total sign allowance.
19. When windows are located above or below a projection sign, they shall be at least 6" from the lintel or other trim of the window above or below it. Staff would recommend a slight modification to read 'When windows are located above or below a projecting or wall sign, the sign shall be mounted at least 6" front the lintel or other trim of the window above or below it'.
20. A maximum of two art placemaking elements are permitted per building for buildings 1, 2, C, K and J provided that they do not include a commercial message or corporate logo. Such elements can be mounted on the building between 15' and 45' above grade and shall not exceed 60 square feet in area. Art placemaking elements may be externally illuminated; however, internal illumination is prohibited.

21. Multi-tenant vehicular directional signs shall not exceed 16 square feet in area or 5.5' in height. Business identification signs shall not be permitted on directional signs.
22. Pedestrian informational kiosks which provide a directory and map of businesses within the Village Section shall be permitted provided that they do not exceed 9' in height or 8 square feet in size. Additional commercial messages shall not be permitted. A maximum of 3 pedestrian informational kiosks shall be permitted for the development.
23. All regulations in Section 151.3014 of the Zoning Code Design and Construction of Permanent Signs shall apply.

*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.*

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

October 22, 2024

<u>PRESENT</u>		
<u>GUESTS & RESIDENTS</u>		<u>STAFF</u>
Mark Bredemeier Principal KBA, Inc. Architects 29 High Street Milford, OH 45140	Brandon Murphy Director of Facilities Jeff Ruby 700 Walnut Street Cincinnati, OH 45202	Terry Donnellon Law Director City of Montgomery Kevin Chesar Community Development Director Karen Bouldin, Secretary
Neal Collinsworth Chief Operating Officer Jeff Ruby 700 Walnut Street Cincinnati, OH 45202	Elise Pattison 9826 Tollgate Lane, 45242	<u>BOARD MEMBERS PRESENT</u> Mary Jo Byrnes, Chairman Richard White, Vice-Chairman Mark Berliant Eric Roth Jade Stewart Steve Uckotter
Angie Holt 9850 Tollgate Lane, 45242	Lucy Putnam 9838 Tollgate Lane, 45242	<u>MEMBERS NOT PRESENT</u> Tom Molloy
Kristin Jordan 9722 Ross Avenue, 45242	Nicole & John Rizzo 9821 Tollgate Lane, 45242	
Karen Mathein 9765 Tollgate Lane, 45242	Ken Suer Councilman City Council City of Montgomery	
Dave Monaghan 9858 Tollgate Lane, 45242	Joshua Taylor 1034 Weaver Road Okeana, OH 45053	
	Greg Vondenbenken Asst. Chief of Police Montgomery	

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

Roll Call

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

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.

Board of Zoning Appeals Meeting

October 22, 2024

13 **PRESENT: Mr. Roth, Mr. Uckotter, Mr. White, Mr. Berliant, Ms. Stewart,**
14 **Chairman Byrnes** (6)

15 **ABSENT: Mr. Molloy** (1)

16
17 **Pledge of Allegiance**

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

19
20 Chairman Byrnes gave a brief explanation of tonight's proceedings: She stated that tonight the
21 Board will be conducting one public hearing. A public hearing is a collection of testimony from
22 City Staff, the applicant, and anyone wishing to comment on the case. All discussions by the
23 Board of Zoning Appeals and all decisions will take place within the business session of this
24 meeting, which immediately follows the public hearing. Everyone is welcome to stay for the
25 business session of the meeting, however, the Board will not take any further public comment
26 during the portion of the meeting, unless clarification is needed by a Board member.

27
28 Chairman Byrnes noted that anyone not agreeing with the Board's decision has the option of
29 appealing to Hamilton County Common Pleas Court, under the procedures established by that
30 court.

31
32 She asked all guests to turn off their cell phones.

33
34 Chairman Byrnes asked that anyone planning to speak to the Board please stand to be sworn in
35 (which included the applicant). Chairman Byrnes swore in everyone planning to speak.

36
37 **Guests and Residents**

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

40
41 Mr. Chesar announced that Melissa Hays had resigned as City Planner on September 18. In the
42 interim, he will be working with the Board of Zoning Appeals until Mr. Greg Vondenbenken
43 starts on January 6, 2025 as the new Zoning and Code Compliance Officer. Mr. Vondenbenken is
44 attending tonight as a guest only, as he is currently Montgomery's Assistant Chief of Police, and
45 will retire after 28 years of service, on January 3, 2025.

46
47 Mr. Chesar introduced Terry Donnellon, Montgomery's Law Director, who will also -be able to
48 assist with some of the history of this application.

49
50 **New Business**

51 *A request for a variance from Mark Bredemeier, on behalf of Carlo and Johnny Restaurant*
52 *by Jeff Ruby, property owner of 9769 Montgomery Road, Montgomery, OH 45242 to allow for*
53 *an extension of a non-conforming use for a new cooler/freezer structure to be installed in the*
54 *western rear yard area of a split zoned property, where the restaurant structure is zoned A-1*
55 *Single Family Residential on the west side; and General Business (GB) on the east side of the*
56 *building and site. Non-conforming uses and structures are regulated, per Sections 151.5002*
57 *and 151.5003 of the Montgomery Zoning Code.*

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.

Board of Zoning Appeals Meeting

October 22, 2024

58

Staff Report

59 Mr. Chesar reviewed the Staff Report dated October 18, 2024, “Application for Variance:
60 Extension of a Non-Conforming Use for Carlo and Johnny by Jeff Ruby, 9769 Montgomery
61 Road”.

62

63
64 He showed the 1967 court order (which was included in the Board’s packets). He noted that he
65 sent this order to the City Engineer and Surveyor, to confirm that the legal description and the
66 split zone of the property was exact. Mr. Chesar noted that it is far from ideal to have a property
67 be split-zoned, much less a building; however, this was the result of the court order.

68

69 Mr. Chesar continued to show items on the wide screen, as he reviewed the Staff Report.

70

71 He indicated that there were three citizens inquiries in person; and several emails were received
72 regarding this application, also included in the Board’s packets. These comments concerned
73 either noise or fence issues, as well as on-site violations. There were also residents in the
74 attendance this evening.

75

76 Mr. Chesar asked for any questions from the Board.

77

78 Ms. Stewart wanted to understand this situation better, and asked to see a current photograph that
79 would show what it currently looked like today, and for Mr. Chesar to show how the changes
80 would be made. Staff showed all in attendance the back of the restaurant, and explained
81 how/where the new proposed unit would be placed.

82

83 Staff explained that the new unit was proposed to sit adjacent to the structure. Mr. Chesar stated
84 that it will not be connected to the structure due to building/fire codes. It is proposed to sit 20
85 feet from the original building. He explained that there was a concrete pad to the left of the
86 storage containers.

87

88 Ms. Stewart asked for an explanation of what all of the other items were, in the back of the
89 building, noting that she looked at the facility today. Mr. Chesar acknowledged that there were a
90 lot of other items back there, and would like to hear from the applicant about this. He noted that
91 they had been remodeling the interior of the site and needed somewhere to store materials during
92 the remodel. He felt that some of it may be storage and materials. He noted that there were
93 Code regulations as to how long these items could remain there. The limitation for storage
94 containers was 14 days and one container has probably been there since 2017, and then a few
95 more containers were delivered on-site.

96

97 Mr. Chesar noted that the applicant has recently removed two of the storage units and relocated
98 another one. They also had demolished a storage structure.

99

100 Ms. Stewart asked if the City was requesting that the fence be a part of this application.

101 Mr. Chesar stated that Staff was suggesting that this fence maintenance be made a part of this
102 motion.

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.

Board of Zoning Appeals Meeting

October 22, 2024

103
104 Mr. Berliant asked if the storage units were located in the residential zoning area. Mr. Chesar
105 confirmed, and showed the view of it from the CAGIS program view. Staff stated that the City
106 doesn't know why the split zone was made where it was. Maybe it was the rear of the structure,
107 at that time, and it had been expanded since then. Obviously, there was intent, from the
108 residential perspective, to be cognizant to leave a residential buffer, and also recognizing the
109 commercial use.

110
111 Mr. Donnellon asked what items will be removed from that area; Mr. Chesar deferred to the
112 applicant.

113
114 Ms. Stewart asked where the source of the noise was coming from. Mr. Chesar thought the
115 HVAC unit was malfunctioning, and has since been corrected. He deferred to the applicant.
116 Ms. Stewart asked if there were any complaints with the sound decibel, as of today. Mr. Chesar
117 is not aware of any presently and stated that he has not taken a reading.

118
119 Mr. Uckotter asked if the City has the ability to take a reading. Mr. Donnellon stated that we do
120 have specific equipment that will read the decibel level, and the police department also has
121 equipment.

122
123 Mr. White asked if this request was for a general overhaul of the area. Mr. Chesar stated that the
124 application before the Board was only for a new cooler addition and a relocation.

125
126 Mr. Chesar stated that the containers were a violation issue, which is handled administratively,
127 via Staff. He acknowledged that he had not sent the applicant a 14-day violation notice, but he
128 has had conversations with them, to have the containers moved. He stated that the City was
129 trying to work with them and that Ruby's was making a plan for more permanent structures,
130 instead of the storage containers. Mr. Chesar explained that he had initially worked with the
131 applicant about removing the storage containers that were located right on the property line –
132 neighbors had rightfully complained.

133
134 He indicated that the applicant did tear down the shed, which was used as storage. This was
135 done because of the Code requiring separation of structures.

136
137 Mr. Chesar noted that this business has been there for many years, and the City and appreciated
138 their business. He noted that these changes will not happen immediately, but he will work with
139 them to reach a better, permanent solution.

140
141 Staff believes that the coolers have a relationship to the fencing, simply from a noise and
142 aesthetic perspective. This is also a challenge to be resolved. The remaining items that need to
143 be cleaned up, have an aesthetic concern, as well.

144
145 Chairman Byrnes asked for Staff's knowledge of a future plan. Mr. Chesar was told by the
146 applicant that 1) they would replace all of the fencing by the end of 2024; 2) they are now
147 working on the aspects of their needs for future exterior storage, and how large it will need to be.

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.

Board of Zoning Appeals Meeting

October 22, 2024

148 Mr. Chesar has not toured the inside of the storage containers.; 3) they are trying to address the
149 parking situation in the rear, for their employees.

150
151 Mr. Berliant asked if this would require a later proceeding, relative to storage units. Mr. Chesar
152 stated that they might need to come back for approval of a storage shed. He noted that a shed
153 was permitted in a residential district, but it is supporting a commercial use. He felt that this
154 would need to come before this Board. He deferred to Mr. Donnellon.

155
156 Mr. Donnellon stated that for the temporary storage, the City would typically allow pods,
157 dumpsters as temporary storage, during construction. When the construction was done, they
158 would have a timeframe in which to remove it. What we tried to regulate was placing pods in
159 residential driveways, in anticipation of a move, and then they would remain there for many
160 months. That is when the restriction was created.

161
162 Mr. Donnellon stated that the storage shed is the difficulty. A shed is permitted in a residential
163 backyard, as long as the setback requirement is met. But a backyard shed is for residential use –
164 with a lawnmower and snowblower. This is a commercial shed in a residential area, and we
165 would probably have to treat it as an expansion of the non-conforming use because it is a
166 commercially used shed, determined by where it is located, how it is being used and what impact
167 it posed.

168
169 Tonight's discussion needs to focus on how to mitigate the impact and how to avoid nuisance.
170 That is what was done in 1985. Tonight should be about what items will be removed, and if the
171 new cooler and new building will bring issues relative to mitigation and/or avoiding a nuisance.
172 In 1985, they felt that a fence would be required to avoid a nuisance. So, it would be appropriate
173 to address that fence; and the applicant has stated that they would. This could be a condition,
174 relative to how that fence needs to be used to mitigate the impact of this.

175
176 The difficulty with noise is that you don't know how loud it will be, until it is installed, no matter
177 what the manufacturer states. Perhaps the applicant would be willing to put up buffering now, in
178 anticipation that it might be louder than 55 decibels; but you can also wait until it is installed and
179 then take the measurements, and then make mitigation, if needed. According to the 1985 decree,
180 55 decibels was the maximum. Current Code allows 60 decibels at night, and 70 during the day.
181 Mr. Donnellon stated that we have heard from the applicant that they were going to remove some
182 of the condensers on top of the shed, and maybe another one will bring the noise level down.

183
184 Mr. Berliant asked if we should be looking at an overall plan, rather than 2 independent little
185 ones. Mr. Donnellon agreed, if the applicant was ready to address all of it. They can make the
186 choice tonight to come back, and wrap it all together, or to get this done, and come back later.

187
188 Chairman Byrnes was concerned that, without knowing the future plan for exterior storage, once
189 this (cooler addition & relocation) was in place, we would not know how these units would
190 impact the position or placement of the (undecided) future storage sheds that may then further
191 encroach on the neighbors' property. She felt that we needed to look at the big picture because
192 she did not want to allow something now, that may come back to make it worse.

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.

Board of Zoning Appeals Meeting

October 22, 2024

193

194 Chairman Byrnes asked if Staff found any previous cases regarding storage sheds.

195 Mr. Donnellon recalled a storage shed in a residential area that encroached on the setback
196 requirement; the neighbors did not get along very well. Chairman Byrnes cited an old case –
197 where Johnson Mortgage used to be (it is not currently there.). She explained it.

198

199 Mr. Donnellon stated that this was different, in that the applicant has plans for storage. If you
200 are concerned that approving this may impact that, it is the applicant's risk to go ahead and only
201 have these items reviewed tonight. The risk they take, is if they come back later, we may not
202 approve it, because of the continuing adverse impact. It is up to the applicant tonight to make the
203 choice to come back with a comprehensive plan.

204

205 Mr. Donnellon stated that the applicant will have to dispose of the other items, clean it up as
206 enforced by the City. Again, we will also defer to the need for construction and storage during
207 the term of construction.

208

209 Mr. Roth referred to page 2 of the Court Order...

210

211 "It is further ordered that the Zoning Board of Appeals of the Village of Montgomery,
212 Hamilton County, Ohio, amend the zone map of the village of Montgomery to conform
213 with the order of this court." (which is Retail "e")

214

215 Mr. Roth asked how we ended up with a split parcel zone. Mr. Donnellon stated that the legal
216 description was embedded in this decree. We had seeked out two consultants to find where the
217 line was. If you read on page 3, it says that the remainder of the property shall be a lawful, non-
218 conforming use. The deep-survey look shows that this was then subdivided to Fox & Crow, and
219 subdivided the property and carved out the condominiums. Also, note that the subdivision
220 behind there is called the Fox & Crow. We believe that the Court just said that part of it would
221 need to be zoned because it incorporated that building that was being used for a restaurant.
222 We can only assume that, back then, there were no additions on the building, and they drew that
223 property line, where that restaurant was right up to the property line. But, we have always dealt
224 with the remainder of those properties as non-conforming use since 1985.

225

226 On the wide screen, Mr. Chesar showed the line on the CAGIS rendering, pointing out that this
227 was what the current surveyor confirmed, based on the decree. Mr. Donnellon noted that it
228 would be typical to have permitted to have a property line in the middle of their building; we
229 believe that at some point in time, the property owners consolidated that lot, which eliminated
230 that property line.

231

232 Chairman Byrnes asked if the applicant wished to speak.

233

234 **Mark Bredemeier, Principal, KBA, Inc. Architects, 29 High Street, Milford, OH 45140**
235 thanked Staff and the Board. He introduced his associates who were attending this evening:
236 Neal Collinsworth, Chief Operating Officer for Jeff Ruby; Josh Taylor – the contractor, and
237 Brandon Murphy, Director of Facilities for Jeff Ruby.

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.

Board of Zoning Appeals Meeting

October 22, 2024

238
239 He acknowledged that the Ruby's will be replacing the entire fence, to meet the 1985 standards.
240 He noted that the northwest corner was currently only 6 feet high, and will be increased to 8 feet,
241 to match the rest of the fencing.

242
243 Regarding the sound data, Mr. Bredemeier assured all that the current compressor on the box
244 will not be heard; he was confident that the new compressors will meet the 55 decibel
245 requirement. He took a sound reading last week, at the fence, with his phone (which is not as
246 accurate as the City's equipment), but he saw a reading that spanned from 52 to 57 decibel.
247 He was near the HVAC unit. With ambient noise, it is difficult to get an exact reading.
248 He encouraged the City to take a reading. He understood that there was a problem with the
249 compressor on the HVAC unit, which was generating noise, and it was replaced recently.

250
251 Mr. Bredemeier responded to the questions about the separation distance from the walk-in cooler
252 to the existing building. The reason for the separation is that this building was built as a
253 residence in the 1800s, so anything they do to expand that footprint is very difficult.
254 The existing stairs, grease interceptor and utilities are situated in as compact a way as possible.
255 They have to stay 20 feet from the building, so that it is not considered part of the existing
256 restaurant. That is according to the Ohio Builders Code.

257
258 In terms of planning for the future, Mr. Bredemeier stated that they must have the coolers to
259 operate. They have tried to get them as compact to the building as possible, so that they won't
260 affect anything we might do in the future. Whether they put in a storage building or reconfigure
261 parking, this is as compact as possible to the building. In addition to being as close as possible to
262 the building, the coolers are placed according to what makes the most sense in terms of operation
263 and the existing site features.

264
265 Mr. Bredemeier asked for any questions.

266
267 Mr. White asked if there would be new pads to place the coolers on. Mr. Bredemeier showed all
268 attendees where it would be, (on the wide screen), explaining that it would need to match the
269 existing grades, so it will not be changing the drainage pattern or anything like that.

270
271 Chairman Byrnes asked if these coolers would be in addition to what they already have.

272 Mr. Bredemeier explained that the existing unit would be repositioned, off to the side so that it is
273 in compliance with the Building Code. There will be a new unit, which includes refrigeration
274 and a freezer.

275
276 Mr. Berliant asked if there is an urgent need for the coolers. Mr. Bredemeier confirmed that they
277 would like to have this completed for the holiday season. They will also expand their kitchen, on
278 the inside, to increase their operations. Since the second floor was renovated, this restaurant has
279 been very successful.

280
281 Mr. Uckotter asked about the fence, and wanted to see where the 8 foot fence would be located.

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.

Board of Zoning Appeals Meeting

October 22, 2024

282 Mr. Bredemeier stated that currently it complies with the 1985 hearing, except for a small section
283 that is only 6 feet, and it will be increased to 8 feet. It will be along all of the properties along
284 Tollgate, to the northwest corner. Staff showed all on the wide screen.

285
286 Ms. Stewart asked why the restaurant needed to expand their kitchen. Mr. Bredemeier stated that
287 this kitchen is currently very tight, and this will give them more space to expand the kitchen.
288 With the current size of the kitchen, they cannot accommodate the holidays, given the upstairs
289 addition.

290
291 **Neal Collinsworth, Chief Operating Officer, Jeff Ruby, 700 Walnut Street, Cincinnati, OH**
292 **45202** stated that with the changes on the second floor (the Collectors Room), they have picked
293 up an additional 70 seats, which is utilized on a night-to-night basis, sometimes 2 to 3 times per
294 night. So they are seating an extra 210 to 350 people a night. They have not gotten into the busy
295 season yet; the Collectors Room opened up in late March /April, and they have seen an increase
296 of business since then. The current walk-in cooler in the kitchen does not have enough foot
297 space to hold all of the products they need to serve. They are also adding a walk-in freezer
298 outside, which they do not have at this time. That will allow them to change the menu items, and
299 provide specialty items that other restaurants have.

300
301 Chairman Byrnes asked what was housed in the storage units. Mr. Collinsworth stated they had
302 restaurant supplies – linens, chairs, tables. There were also some construction supplies from the
303 April remodel that can be eliminated. He stated that they will look into these units and clean
304 them up and out. He stated that they were going to put together a plan, they just needed some
305 time – perhaps 6-9 months to either build something and/or move the un-needed tables & chairs
306 downtown to the larger restaurants.

307
308 Chairman Byrnes asked if any guests or residents had questions or comments.

309
310 **Kristin Jordan, 9722 Ross Avenue, Montgomery, OH 45242** stated that she has been in her
311 home for 51 years. She asked if the fence will be moved back, or if they will they keep it where
312 it is. Mr. Bredemeier confirmed that they would keep it in the same location. She was
313 concerned with the noise, as the cooler unit would be moved 20 feet closer to her property line.
314 She was also concerned with the water runoff into her backyard because she had been told they
315 were going to put asphalt down on that entire back area.

316
317 Chairman Byrnes asked Mr. Chesar if this has been taken into consideration. Mr. Chesar stated
318 that Mr. Bredemeier stated that this proposal will not change any of the drainage pattern at this
319 time. If they do pave that site, they will have to address water quality and run-off.

320
321 Mr. Bredemeier stated that the proposal for tonight was only for the concrete pad, and it will not
322 change any of the drainage pattern, or add to impervious surface. Anything that we do in the
323 future – if we were to pave the area – would need to go through Hamilton County Engineering,
324 so that it would meet all of the stormwater detention requirements, and stay on our property.

325

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.

Board of Zoning Appeals Meeting

October 22, 2024

326 **Elise Pattison, 9826 Tollgate Lane, Montgomery, OH 45242** stated that Carlo and Johnny is
327 located directly behind her backyard. She stated that she has been impacted by them, and will
328 continue to be, if this application is approved. Her biggest concern was that, over the course of
329 her 28 years in her home, they have not followed through with items that needed to be done.

330
331 According to the General Manager (Ashley Stevens), Brandon Murphy made the decision to put
332 two 18' x 24' metal storage containers, 5 feet from her property line. She notified the City on
333 May 17, 2024, and has given them more than 21 photos, as well as several videos of what she
334 has experienced in the last several months.

335
336 Ms. Pattison was very disappointed that they were here to gain a variance that was requested
337 only 2 months ago, but that she was still waiting for many of the items that she had made the
338 City aware of in May, to be addressed. She did note that Melissa Hays had told them to move
339 the 2 containers away from the property line, and they did take away 1 container, but the other
340 one stayed where it was – by the trash dumpster – and is still there today. All of the storage units
341 are sitting on dirt, not on a pad or solid surface (which does not meet the Code requirements).

342
343 As far as the noise, Ms. Pattison noted that the old compressor was very disturbing, and Melissa
344 Hays was standing in her backyard talking with her, and she could barely hear them, over the
345 noise. This took 2 weeks to be taken care of.

346
347 Ms. Pattison stated that she has a list of 73 comments, based on the 43 pages that she was
348 provided regarding tonight's application, and will give it to Staff tonight, so that they can be
349 addressed. She stated that Carlo and Johnny talk about community and their integrity in the
350 community and commitment to justice and truth, and it is disappointing to see what they have
351 failed to do.

352
353 She also pointed out that her property was the one with the 6 foot fence – this is a 40-year
354 discrepancy that no one knew until today. Whenever the panel/s fall down, her and her husband
355 go and fix them, so that they don't have to look at the number of cars (in their backyard), and
356 listen to people talk inappropriately. One time, when she had asked him to stop, the man said he
357 didn't even care.

358
359 She is in her own back yard, and can't help but see over the 6 foot fence. She has videos of
360 people sitting in their trucks during deliveries (because they are so high up). She has videos of
361 them spitting at the fence.

362
363 Regarding noise, she hears from every window in her residence The trash man comes and bang
364 the containers 3 or 4 times, very loudly,. Deliveries are made between 4am and 8am on a
365 Sunday -- as recently as this past Sunday. She was told that they don't receive deliveries then,
366 because they don't have staff there to receive them. She has videos of the trucks and their staff
367 taking these deliveries. She named several delivery companies.

368
369 Ms. Pattison stated that her family was so happy to move into Montgomery, and loves so many
370 things about it, until this. She has had Tequila bottles thrown in her backyard. Instead of calling

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.

Board of Zoning Appeals Meeting

October 22, 2024

371 the police or the City, she walked over to Carlo and Johnny and showed it to them. Another man
372 said he was the General Manager and said that he would reprimand the person.

373
374 She called them to ask them how long the storage containers were going to be there. Ashley
375 Stevens told her they would be there permanently. This was in May, and Ms. Pattison asked
376 Ashley if she had a variance approved for them to be there for 2 months because Mr. Chesar
377 stated they might be able to stay for 2 months. Ms. Stevens stated she did not have a variance or
378 a permit for them. Again, for them not to be aware of the need for a variance or a permit, or of
379 the Code requirements, was amazing to Ms. Pattison.

380
381 Based on her experience with Johnny and Carlo, and their lack of concern for the community,
382 who surround them, she was not impressed. She has tried to be a good neighbor, and not come
383 to the City, constantly complaining.

384
385 She felt that the references made in the packet that was provided for the variance review, needed
386 to be addressed. If they weren't relevant, they would not have been in the packet for the Board
387 and the neighbors to review.

388
389 She believed that since the concrete pad will be torn up and moved, it will change things,
390 especially the water drainage issue. She has photos of her backyard, as well as her neighbor's,
391 with a water pond. This makes her yard unusable. She showed the water to Melissa Hays, and
392 she walked right through it. Ms. Pattison wanted this to be noted and taken care of at this time.

393
394 She stated that she has driven around the City to see the proximity of outdoor cooler units to their
395 respective restaurant, and she has seen them 2 to 4 inches away, some 2 to 4 feet away. She felt
396 that there were a lot of restaurants in violation. Mr. Donnellon stated that it is an Ohio Building
397 Code that is related to older structures (Carlo and Johnny was built in the 1800s). When you
398 attach a cooler to an older structure, you compromise the integrity of the older structure. This is
399 the reason for the 20 foot requirement for Jeff Ruby.

400
401 Terry Donnellon understood Ms. Pattison's point that the City needed to step up and enforce the
402 ordinance and these issues. He stated that perhaps her list of 73 items may be enforcement issues
403 that the City can address. He noted that whenever there is an impervious surface (concrete slab),
404 there is always an engineering study and the standards are that you cannot disperse your water
405 off of your site. When it is built, and if there are any issues, that is an enforcement issue that the
406 City can control.

407
408 Ms. Pattison asked about the storage containers on the site. Mr. Donnellon assured her that they
409 (the City) would take care of this.

410
411 Ms. Pattison requested that the Board and Staff review her 73 comments and questions related to
412 this application, and consider them. She also requested that, similar to what Mr. Collinsworth
413 requested, that they give her a couple of months, and postpone the decision on this
414 request/recommendation, until they address these issues that have been, and are in violation.
415 She reminded them that for 40 years, she has not had the proper fencing, she has not had a 5 foot

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.

Board of Zoning Appeals Meeting

October 22, 2024

416 landscaping buffer along her property, all the way down. The only thing there is overgrowth and
417 poor maintenance of the fence. She questioned if the fence has been there since 1985.

418

419 She asked for a postponement of a decision for this variance based on the lack of integrity of this
420 neighbor, and the lack of enforcement of these requirements from the City. All of us residents
421 are held responsible to these same ordinances, and are required to comply with them. She asked
422 for a postponement, until these items were addressed by the applicant.

423

424 **Dave Monaghan, 9858 Tollgate Lane, Montgomery, OH 45242** stated that this restaurant has
425 been in business for 90 years, including 23 by the applicant. He assumed that they make a profit
426 and that they pay taxes. He felt that they added capacity without thinking through that there
427 would be impact within their kitchen and coolers. Whether they get new coolers or not, this is an
428 operation that can continue to operate. He understood that this was an unusual piece of property
429 due to the residential/commercial split, but felt that they should adhere to the Code.

430

431 Regarding flooding, he referred to many issues on Mitchell Farm that have required variances for
432 catch basins. He has lived on Tollgate for 33 years, and when he sees construction workers on
433 the street, he chats with them and asks them not to place the gutters towards the yard, but push
434 them all the way to a catch basin. There are flooding issues on Mitchell Farm and Tollgate.
435 He felt that the broken-up gravel and asphalt would probably get a 20% degree of water
436 retention/absorption, noting that even concrete has some degree of absorption. He asked the
437 applicant to please make sure that the remediation plan gets the water out of the way.

438

439 Mr. Monaghan stated that he loved the food at this restaurant. He asked them to go back to the
440 restaurant supply company that is providing the cold-pack refrigeration and ask them if there is
441 anything that can be quieter than what your specifications show today. 55 decibels is the
442 maximum, it is not the target -- find the equipment and go under 55, do the best you can, with the
443 equipment you can. He understood that these units needed to breathe, have a certain amount of
444 air flow around them. He asked if they could put any kind of a sound barrier around the rack and
445 the neighborhood, to push the noise away.

446

447 Mr. Monaghan recalled that in the past there have been some kind of plantings that were
448 intended to create a screen. He asked if they could put some arborvitae landscaping there, that
449 would grow fast, and provide a nice screen. In 10 or 15 years, they would be tall enough to
450 provide a great screen for residents. He pointed out that this restaurant towers over many
451 neighbors on Tollgate, as well as the delivery drivers that back up to the restaurant.

452

453 Mr. Bredemeier asked if he could address the sound issue. He stated that 55 is the decibel level
454 in the 1985 court order, and the cooler compressors that they are adding, don't come anywhere
455 close to that. He encouraged anyone here to listen to the current one there – it is quieter than a
456 heat pump or an air conditioner that you would have in your house. The compressors on top of
457 the cooler are very quiet.

458

459 Mr. Monaghan recalled Mr. Bredemeier stating it was 55 to 57, according to his cell phone.

Board of Zoning Appeals Meeting

October 22, 2024

460 Mr. Bredemeier clarified that was for the HVAC that is currently on the site. He stated that he
461 had asked the manufacturer for this data, and there was none available. Mr. Chesar stated that he
462 also looked and could not find any, either.

463
464 Mr. Monaghan asked if a sound barrier on the other side of the rack that would blow whatever
465 noise there was to the south, was an option. Mr. Bredemeier stated that he could not answer that.
466 Mr. Monaghan asked him to think about it.

467
468 Chairman Byrnes asked if the HVAC was making the most noise. Mr. Bredemeier agreed that
469 the bad compressor had made a lot of noise, but has been fixed since then. He stated that it had
470 been 55 to 57 decibels on Carlo and Johnny's side. He would like the City to verify the current
471 sound level.

472
473 Elise Patterson wanted to address the decibels for the new coolers from the manufacturer, so that
474 they don't have to keep coming back, once they have been installed, and found to be higher.
475 Mr. Chesar stated that Staff inquired about the decibel specs from the applicant and they have
476 indicated that they are not any louder than a residential compressor. He was not provided with
477 any official specifications. Ms. Stewart stated that it will be in the motion.

478
479 Mr. Bredemeier stated that if these cooler units are installed and the sound exceeds the 55
480 decibels, it is within their right to come back and say we are not in compliance.

481
482 **Angie Holt, 9850 Tollgate Lane, Montgomery, OH 45242** stated that she lived at the furthest
483 end of Tollgate, so the coolers will not bother her. She felt that Carlo and Johnny was a good
484 neighbor on the front side – they did a good job of picking up the front. However, they do not do
485 a good job at keeping up their parking lot. People throw garbage over the fence into her yard all
486 of the time. On her side of the fence, the fence is falling down. It is 5 feet off the property line.
487 It has dead trees that are covered with poison ivy on her side of the fence. She and her husband
488 are highly allergic to poison ivy, and can't touch it or get rid of it, without paying a costly
489 amount. Before Ruby puts in the new fence, she asked if they would clean up the line, all the
490 way down. Ms. Holt stated that her next door neighbor's part of the fence was so bad that she
491 had to put in a new fence on her property, because he dog was getting out. She had to pay \$2500
492 for her new fence 3 months ago. Ms. Holt stated that they have all reached out, and nothing has
493 been done. She asked that they clean it all up prior to putting up the new fence.

494
495 **Brandon Murphy, Director of Facilities, Jeff Ruby, 700 Walnut Street, Cincinnati, OH**
496 **45202** has a tree service scheduled for this week and they will tend to most of the dead & dying
497 trees along the fence line. He will coordinate with neighbors who have dogs. He stated that the
498 fencing will go up in 3 weeks and he will be sure that those with pets are aware.

499
500 He stated that he went door-to-door, two weeks ago, Friday, and met with most everyone directly
501 or left his business card in their mailboxes, to try to establish or re-establish a healthy
502 relationship with the neighbors. He noted some of the additional concerns that they were
503 working on:

504 - Additional structures along the fence line

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.

Board of Zoning Appeals Meeting

October 22, 2024

505 - access to the condominiums next store, for one of the neighbors

506

507 Mr. White asked about several big holes in the back. Mr. Murphy stated those were from the
508 first hurricane, Helene, recently. He noted that they had 30 feet of paneling down on the 6 foot
509 fence. He stated that he and his father went out on Saturday morning to rectify this. He noted
510 that two trees that toppled over, and they had cut it up and removed it, between Friday night and
511 Saturday morning. They just signed off on the insurance adjustment for that today. There was
512 also damage to their Chef's vehicle.

513

514 Ms. Holt stated that the 3 sections of fence that fell down, were still down; it wasn't fixed that
515 Saturday morning. She asked if they were going to put 10 feet in at certain sections, can they put
516 10 feet all the way down, to prevent people from throwing stuff over the fence. Mr. Murphy
517 stated that they would need a variance from the City for that. The agreement right now was for
518 the two property lines with an 8 foot fence, with the 6 foot running the rest of the run. He stated
519 that they did get a little bit of leeway to the northwest corner, just from the 8 foot section to the
520 back of the property itself. The rest of it would be 6 foot.

521

522 Ms. Holt asked how often they will maintain this fence. Mr. Murphy stated that they will
523 maintain it on a regular basis. He has only been here one year, and they are working on this.

524

525 **Karen Mathein, 9765 Tollgate Lane, Montgomery, OH 45242** attended the meeting, but had
526 to leave early, and she left a note. Mr. Chesar read this into the record:

527

I can't stay. All for it, if they can also fix their side of entrance road. I am more than
529 happy for them to add the cooler.

530

531 Mr. Monaghan asked if the fence will be on the lot line, or 5 feet in. Mr. Murphy confirmed that
532 it will run exactly where it is now, with the finished side toward the neighbors.

533

534 Ms. Pattison asked who she could send her 73 comments to. Mr. Chesar asked Ms. Pattison to
535 email him, and he would forward them to the Board. As for now, the Board will discuss how to
536 proceed with this, in their Business Session – which takes place right after the residents'
537 comments. They will also discuss Ms. Pattison's request for postponement. She stated that she
538 would email this information right now, and would like to submit it as additional evidence, and
539 asked if the Board could review this, and then postpone the decision on the variance.

540

541 Mr. Donnellon pointed out that typically the evidence they hear is what is discussed in the room
542 tonight. It is up to the Board if they want to review this tonight. Ms. Pattison noted that her
543 October 17-18 emails noting a few concerns were also in the member's packets.

544

Adjournment

546 Ms. Stewart moved to close the public hearing.

547 Mr. Berliant seconded the motion.

548 The public hearing adjourned at 8:45.m.

549

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.

Board of Zoning Appeals Meeting

October 22, 2024

550 Chairman Byrnes opened the business session at 8:45p.m.

551

Business Session

553 *A request for a variance from Mark Bredemeier, on behalf of Carlo and Johnny Restaurant*
554 *by Jeff Ruby, property owner of 9769 Montgomery Road, Montgomery, OH 45242 to allow for*
555 *an extension of a non-conforming use for a new cooler/freezer structure to be installed in the*
556 *western rear yard area of a split zoned property, where the restaurant structure is zoned A-1*
557 *Single Family Residential on the west side; and General Business (GB) on the east side of the*
558 *building and site. Non-conforming uses and structures are regulated, per Sections 151.5002*
559 *and 151.5003 of the Montgomery Zoning Code.*

560

561 Chairman Byrnes asked for comments from the Board.

562

563 Ms. Stewart was sensitive to all of the residents' complaints. She believed that Ruby's new
564 Director of Facilities will work with the City to address all of the enforcement issues. She did
565 not feel that their concerns were relevant to this application. The City needs to deal with this.
566 should be affected by these issues that have been brought forward from the residents. She
567 pointed out that tonight's application was simply for an extension, relative to the cooler/freezer
568 structure. She explained that the criteria that we consider for a variance is consistent with the
569 criteria that we use across a variety of requests for variances, since she has been on the Board.
570 She believed they were appropriate, and that this specific request met all of that criteria.

571

572 Ms. Stewart referred to page 6 of the Staff Report dated October 18, 2024, item 1: She did not
573 believe that the neighborhood would be substantially adversely affected, however, she would like
574 to put a condition in their motion regarding the noise level. Regarding item 2, she did not
575 believe that it would impact the character of the neighborhood, for them to shift where they are
576 placing their cooling units. On page 7, item 3, Ms. Stewart noted that obviously, special
577 conditions and circumstances existed that were peculiar to the land and/or structure, for this
578 application. There were a number of substantial special circumstances on the property that
579 permit this. She pointed out that there a number of times, on the Board, that we have to give
580 unique consideration to unique pieces of property, and this is one of them. Regarding items 4
581 and 5, she believed those 2 items have been addressed.

582

583 As to the water drainage concerns, Ms. Stewart stated that the City will work closely with Ruby
584 during the construction process to make sure that there is appropriate drainage. If there are water
585 issues, they will be handled by City enforcement, not by this Board.

586

587 She did not feel the storage issues were related to this application, and if Ruby wants to move
588 forward with the cooling unit in advance of the holidays, and needs however much time the City
589 is willing to give them to address the storage units, that seemed appropriate to her.

590

591 Ms. Stewart did not feel that the Board should delay their decision.

592

593 Mr. Berliant agreed with Ms. Stewart, and understood all of the neighbor's complaints, but stated
594 that those were not the issue before the Board tonight.

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.

Board of Zoning Appeals Meeting

October 22, 2024

595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639

Mr. White agreed with Ms. Stewart and Mr. Berliant.

Mr. Uckotter stated that he viewed Ruby's property on Saturday afternoon, and they were ramping up for dinner guests – the air handlers were on, the exhaust fans were on, and he couldn't hear the compressor. He stepped up closer to the cooler, and he could hear it then. He stepped back almost to the middle of the driveway, and he couldn't hear it anymore, it was lost to the ambient noise. He did not feel that this was any louder than the other equipment. He pointed out that the new unit will actually be lower, and set to the east of the building; it won't even be facing the residents.

Chairman Byrnes wanted the residents to know that this Board understood their concerns, and she felt that Ruby has failed miserably in taking care of issues that they said they would. She pointed out that it was up to the City to enforce the requirements; and stated that she will now watch this, and not let things slip through. She asked the neighbors to call the police, if somebody shows up at 5:30am in the morning, and they have to cite the supplier, and cite the business.

Neil Collinsworth stated that all purveyors have been called and told, effective yesterday, that anyone who comes before 7:00am will be cited by the police. They have all been asked to come after 7:00am.

Chairman Byrnes stated that everything can not be fixed tonight, it will take time. She wanted residents to know that we do understand and are sympathetic to their concerns. She stated that Mr. Chesar will do his job; this is not falling on deaf ears. She felt that Ruby realizes their failures of the past, and wanted to do better.

There was discussion about how the motion would be worded - reaffirming the 1985 fence standards for the fence, and consistent with the staff report.

Mr. Uckotter moved to approve the request for a variance from Mark Bredemeier, on behalf of Carlo and Johnny Restaurant by Jeff Ruby, property owner of 9769 Montgomery Road, Montgomery, OH 45242 to allow for an extension of a non-conforming use for a new cooler/freezer structure to be installed in the western rear yard area of a split zoned property, where the restaurant structure is zoned A-1 Single Family Residential on the west side; and General Business (GB) on the east side of the building and site, per Sections 151. 5002 and 151.5003 of the Montgomery Zoning Code, as described in the City of Montgomery Staff Report, dated October 22, 2024, with the following conditions:

- 1) Proposed decibel levels from the cooler/condenser unit shall not exceed 55 decibels at the residential property lines, as previously approved by City Council in 1985.***
- 2) Screening or mitigation of the rack/ground condenser unit occur to achieve the goal (stated in item 1)***

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.

Board of Zoning Appeals Meeting

October 22, 2024

640 3) *Installation of a pressure-treated wood fence, 8 feet in height, along the north property*
641 *line, and 6 feet in height along the west property line of the A-Zone lot, and a 6 foot*
642 *fence on the north side of the GB Zone lot, abutting Tollgate Lane, which shall be*
643 *continuously maintained in good condition*
644

645 *as described in the City of Montgomery Staff Report dated October 22, 2024.*
646

647
648 *Ms. Stewart seconded the motion.*
649

650 *The roll was called and showed the following vote:*
651

652 *AYE: Mr. White, Mr. Berliant, Mr. Roth, Mr. Uckotter, Ms. Stewart, Chairman Byrnes (6)*

653 *NAY: (0)*

654 *ABSENT: Mr. Molloy (1)*

655 *ABSTAINED: (0)*
656

657 *This motion is approved.*
658

Adjournment

660 Mr. White moved to close the business session.

661 Mr. Berliant seconded the motion.

662 The business session adjourned at 8:55p.m.
663

664 Chairman Byrnes opened the public hearing at 8:55p.m.
665

666 Chairman Byrnes stated that we would move the Board and Commission Training to a future
667 meeting. Mr. Donnellon and all Board members agreed.
668

Other Business

670 There was no other business to report.
671

Minutes

673 Mr. Berliant moved to approve the minutes of August 27, 2024, as amended.

674 Mr. Uckotter seconded the motion.

675 The Board unanimously approved the minutes.
676
677

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.

Board of Zoning Appeals Meeting

October 22, 2024

678 **Adjournment**

679 Mr. Berliant moved to adjourn. Mr. Uckotter seconded the motion.

680 The meeting adjourned at 9:00p.m.

681

682

683

684

685

686

687 _____
Karen Bouldin, Clerk

Date

688

689 /ksb

DRAFT