

Board of Zoning Appeals Agenda

May 28, 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

9912 Forestglen Drive: Property owner Melissa Day, requests to allow for an accessory structure, 14' x 40', to have a setback of 8' from the side property line where 15' is required per Schedule 151.1009 (B) of the Montgomery Zoning Code. A second variance is being requested to allow the structure to have a setback from the principal building of 4' where 10' is required per 151.1009(B).

Agenda Item 2

8821 Weller Road: Property owners Abigail and Lance Busdeker, request to allow for an accessory parking area to have a setback of 13.2' from the front property line where 25' is required per Schedule 151.1009 (B) of the Montgomery Zoning Code. A second variance is being requested to allow the expansion of the legal non-conforming driveway, 20'3" x 16', to have a setback of .2' where 5' is required per Schedule 151.009(B) of the Montgomery Zoning Code.

Agenda Item 3

9393 Shelly Lane: Applicants Eric Hines and Mike Wentz, potential buyers, are requesting a variance to allow an addition to provide no on-site parking spaces, where Schedule 151.3204 and Section 151.3207 of the Montgomery Zoning Code requires a minimum of 10 spaces in the Outer Old Montgomery District.

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

CITY OF MONTGOMERY
BOARD OF ZONING APPEALS

Application for Variance: *Eric and Melissa Day*
9912 Forestglen Drive

May 28, 2024
Staff Report

Applicant: Eric and Melissa Day
9912 Forestglen Drive
Montgomery, Ohio 45242

Property Owner: SAME

Vicinity Map:



Nature of Request:

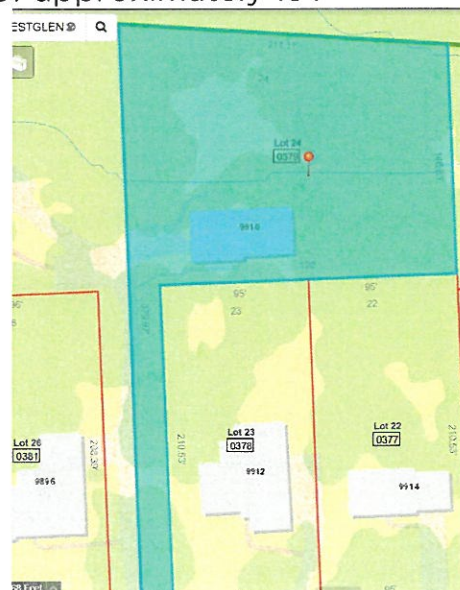
The applicants are requesting a variance to allow a new detached structure, 14' x 40', to have a side yard setback of 8' where 15' is the minimum required per Schedule 151.1009(B) of the Montgomery Zoning Code. A second variance is being requested to allow the structure to have a setback from the principal structure of 4' where 10' is required per Schedule 151.1009(B).

Zoning:

The property is zoned 'A' Single Family Residential. The properties to the north, west, and south are also zoned 'A' Single Family Residential and are used as single-family residences.

Findings:

1. The lot is approximately .459 acres, or 19,994 square feet, which is slightly less than the 20,000 square foot minimum required for the 'A' District. Therefore, the lot is legal non-conforming in lot size.
2. Schedule 151.1009 of the Montgomery Zoning Code requires accessory buildings over 200 square feet in size to be a minimum of 15 feet from the side and rear property lines and setback 10 feet from the principal building.
3. The house was built in 1973, and has a side loading, enclosed two car garage. A portion of the driveway has a 0' setback where 5' is required.
4. The applicant is proposing a structure 14' x 40' or 560 square feet, which is near the maximum size permitted of 567 square feet for a detached structure.
5. There is a panhandle lot with an existing house directly behind the lot with an address of 9910 Forestglen Drive. This house has a legal non-conforming setback of approximately 15'.



Variance Considerations:

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

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

The lot is legal non-conforming in size, as the lot is 6 square feet less than what is required in the 'A' District. The existing driveway is also legal non-conforming, as a portion of it has a 0' setback where 5' is required. There are no special conditions or circumstances regarding the existing structure.

The applicants have stated in their application that the existing garage is smaller than average and there is only 300 square feet of basement storage area.

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

Staff believes the property will yield a reasonable rate of return without granting the variances as the existing house has an attached 2 car garage, and there is ample opportunity to locate an accessory structure in a different location on the lot.

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

The variance request is substantial, as the applicant is requesting a 47% reduction in the side yard setback for a structure over 200 square feet.

The variance from the principal structure is also substantial, as the applicant is requesting a 60% reduction in the setback.

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

Staff is of the opinion that the character of the neighborhood may be substantially altered by granting the variance, as the reduced side yard setback will increase the visibility of the large structure from the street.

In addition, the structure will be significantly closer to the principal dwelling than is permitted.

However, the applicants are proposing a compatible design with the main dwelling, including replicating architectural features, using the same hardie board & batten, and the same roof pitch and shingle color and detailing.

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 applicants have stated they were not 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 the actions of the owner.

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

Staff believes that the applicants have proposed a location to best utilize the existing driveway placement, work with existing topography, and maintain a greater separation from 9910 Forestglen Drive. However, the house does have an existing two car attached garage, and the same area may allow for a smaller structure, 200 square feet or less, with a 10' width.

The applicants included a sketch of having a structure further back in the rear yard, along with a list of reasons why this location is not preferred (see drawing 001).

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

The zoning code is clear that accessory structures shall be located a minimum of 15 feet from the side and rear property lines in the 'A'

District; however, Staff does not believe that it is the intent of the zoning code to inhibit the property owners ability to have an accessory building on the lot, if its location would not be detrimental to the surrounding properties and a practical difficulty can be established. Staff understands the applicants' intent to locate the structure as far from 9910 Forestglen Drive, as possible; however, has some concern that a practical difficulty has not been clearly established.

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

Dimensional variances for accessory structures on residential lots have been granted to lots with special conditions that are peculiar to the land and granting the variance does not grant any special exception in regard to use. The following accessory structure variances have been previously granted:

- 10310 Gentlewind Drive was granted a 7' variance from the rear and side yard setbacks for the construction of a shed in August of 2008.
- 14044 Bobwhite Court was granted a variance of 1.6' into the side yard setback for an accessory structure in May of 2007.
- 10396 Southwind Drive was granted a variance of 6' into the side yard setback and 12' into the rear yard setback for a shed.
- 9119 E. Kemper Road was granted a side yard setback variance of 11' for a 280 square foot detached garage in September of 2010.
- 8924 E. Kemper Road was granted variance to allow an accessory structure to be located 0' from the property line where 15' was required in July of 2016.
- 10722 Adventure Lane was granted a variance to allow an accessory structure to have a setback of 5' where 15' was required in January 2022. The structure was 264 square feet.

The following accessory structure variance was denied:

- 9121 Forestknolls Drive was denied a variance to allow a 576 square foot accessory structure to have a setback of 7.5' where 15' was required in August of 2023.

Staff Comments and Recommendations

Staff is of the opinion that the request to allow for the structure to have an 8' setback may negatively impact surrounding properties, as structures of the size require a 15' setback. However, Staff does recognize that the location of the panhandle lot and existing home and large oak tree, somewhat restricts the placement of a detached garage. In addition, Staff does have some concern with the reduced separation between structures, as the request is significant, and a practical difficulty has not been clearly identified.

Staff believes that the variance to allow a 560 square foot accessory structure to have a setback of 8' from the side property line where 15' is required per Schedule 151.1009 (B) of the Montgomery Zoning Code and in accordance with the site plan dated 4/22/2024 would be justified by criteria #1, 5, 6, and 7.

Staff believes that the variance to allow an accessory structure to have a setback from the principal building of 4' where 10' is required per 151.1009(B) and in accordance with the site plan dated 4/22/2024 would be justified by criteria #5, 6, and 7.



APPLICATION FORM

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

Project Address (Location): 9912 Forestglen Dr

Project Name (if applicable): Garage/shop/storage addition

Auditors Parcel Number: 603-0008-0378-00

Gross Acres: .459 Lots/Units 1 Commercial Square Footage _____

Additional Information: _____

PROPERTY OWNER(S) Eric & Melissa Day Contact Eric Day

Address 9912 Forestglen Dr Phone: 513.218.1446

City Montgomery State OH Zip 45242

E-mail address eday@transomdesignbuild.com

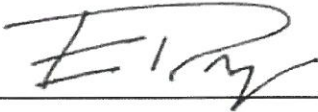
APPLICANT Transom Design/Build Contact Eric Day

Address 9912 Forestglen Dr Phone: 513.218.1446

City Montgomery State OH Zip 45242

E-mail address eday@transomdesignbuild.com

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.

Property Owner Signature  *FOR DEPARTMENT USE*

ONLY

Print Name Eric Day

Date 4/10/2024

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



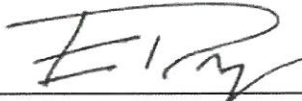
CONSENT OF OWNER(S) TO INSPECT PREMISES

To: City of Montgomery Board of Zoning Appeals Members and Staff
City Hall
10101 Montgomery Road
Montgomery, Ohio 45242

Re: Review Subject Site

Dear Members and Staff:

As owner(s) of the property located at 9912 Forestglen Dr, we hereby grant permission to Members of the Board of Zoning Appeals and City of Montgomery Staff to enter the property for visual inspection of the exterior premises. The purpose of said inspection is to review the existing conditions of the subject site as they relate to the application as filed to the Board of Zoning Appeals.

Property Owner(s) Signature 

Print Name Eric & Melissa Day

Date 4/10/2024

Board of Zoning Appeals Members:

Mary Jo Byrnes

Tom Molloy

Jade Stewart

Steve Uckotter

Richard White

Consideration for Approval of Dimensional Variances

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

1. Whether special conditions and circumstances exist which are peculiar to the land or structure and which are not applicable to other lands or structures in the same zoning district. Examples are narrowness, shallowness or steepness of the lot, or adjacency to non-conforming uses.

Existing 1973 ranch home is situated on north side setback as well as the south side setback on the edge of driveway with rear flag lot. Please see surveyed site plan with proposed placement with neighbors house placed on the site plan. The possibility of the rear yard to house a detached garage is problematic, due the Slope, drainage retention, back yard neighbor (flag lot) and 9912 Forestglen's existing structures rear master bedroom windows inhibiting a rear garage addition.





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

If the variance is NOT granted, 9912 Forestglen would have a hard time in resale do to the limited amount of off street parking and interior storage. 9912 Forestglen has a smaller than average 2 car garage AND only a 300 sq ft FULL basement and storage is currently housed in a rear trailer. Being a ranch this makes it extremely difficult to store average household items. The intention is new garage will eliminate rear yard shed, trailer, and outside truck parking on driveway.

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

The variance is minimal: 1) Decreasing the current side setback from 15' to 8'-3/4" 2) Decreasing the accessory structure distance from the principle structure from 10' to 4'

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

The character of the neighborhood would NOT be affected, as the same architectural features as the existing house will be maintained in the new garage structure. 1) Same Hardie board & batten 2) Same roof pitch (3:12) and asphalt shingle color and detailing

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

No government services affected by the requested variances.



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

Initially, we were not aware of the side setback being 15' and where the property lines actually were. The property corners are currently set and marked along with a licensed survey and CAD drawing for future improvements to be utilized.

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

Please see the site survey A1 for the proposed placement of the garage structure.

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

No, not if we intend to remain as residents of the property.

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?

To our knowledge there is no other properties in the Forestglen subdivision that has this particular issue.

Brigid Kelly, Hamilton County Auditor

generated on 4/10/2024 9:35:37 AM EDT


Property Report

Parcel ID 603-0008-0378-00
Address 9912 FORESTGLEN DR

Index Order
Parcel Number

Tax Year 2023
Payable 2024

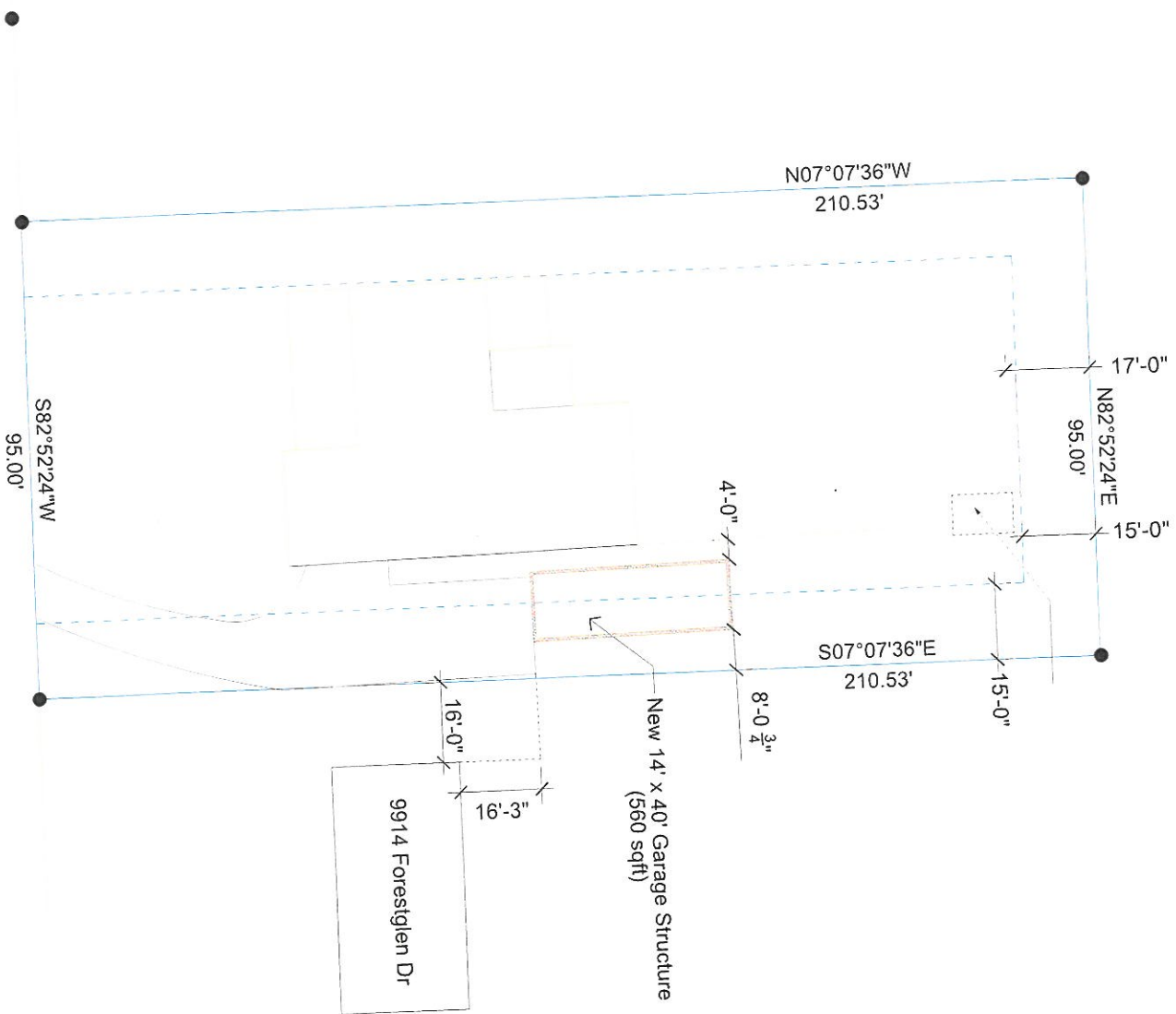
Property Information

Tax District	211 - MONTGOMERY-SYCAMORE CSD	Auditor Land Use	510 - SINGLE FAMILY DWLG	Images/Sketches 
School District	SYCAMORE CSD	Tax Bill Mail Address	DAY MELISSA L & ERIC J 9912 FORESTGLEN DRIVE CINCINNATI OH 45242 (Questions? 946-4800 or treasurer.taxbills@hamilton-co.org)	
Appraisal Area	60313 - MONTGOMERY 13 Sales	Owner Name and Address	DAY MELISSA L & ERIC J 9912 FORESTGLEN DRIVE CINCINNATI OH 45242 (call 946-4015 if incorrect)	
Assessed Value	142,270	Effective Tax Rate	55.899522	Total Tax \$7,151.93

Property Description
FORESTGLEN DR 95 X 210.53 LOT 23 FOREST GLEN ESTS SUB BLK B

Appraisal/Sales Summary		Tax / Credit / Value Summary	
Year Built	1973	Board of Revision	YES(09)
Total Rooms	8	Rental Registration	No
# Bedrooms	3	Homestead	No
# Full Bathrooms	3	Owner Occupancy Credit	Yes
# Half Bathrooms	0	Foreclosure	No
Last Transfer Date	6/21/2017	Special Assessments	Yes
Last Sale Amount	\$310,000	Market Land Value	105,550
Conveyance Number	144074	CAUV Value	0
Deed Type	TR - Trustees Deed (Conv)	Market Improvement Value	300,950
Deed Number		Market Total Value	406,500
# of Parcels Sold	1	TIF Value	0
Acreage	0.459	Abated Value	0
		Exempt Value	0
		Taxes Paid	\$3,578.26

Notes



GENERAL NOTES:

A	description	by	date

PROJECT NAME:

Site Plan

DRAWING TITLE:

9912 Forestglen Dr
Master Site Plan

DRAWN BY:

E Day

CHECKED BY:

APPROVED BY:

DATE:
04/9/2024

CLIENT

Melissa Day

9912 Forestglen Dr
Mantoloking, NJ 07020

513.884.0293 Cell
melssday24@gmail.com

ARCHITECT:



Transom Design/Build
513.218.1426 Cell
edey@transomdesignbuild.com

PROJECT NO:

SCALE:
0:00

A1

DRAWING NO:

001

SHEET NO
A0

REVISION:

001

UNIT:



GENERAL NOTES:

A	description	by	x/y/m/k

PROJECT NAME:

Garage/Shop
Storage Addition

DRAWING TITLE:

9912 Foresigten Dr
Master Site Plan

DRAWN BY:

E. Day

CHECKED BY:

APPROVED BY:

DATE:
04/11/2024

CLIENT

Melissa Day
9912 Foresigten Dr
Montgomery, OH 45242
513.884.0293 Cell
melssday242@gmail.com

ARCHITECT:



Transom Design/Build
513.218.1446 Cell
eddy@transomdesignbuild.com

PROJECT NO.:

SCALE:
0:00 A2

DRAWING NO.:

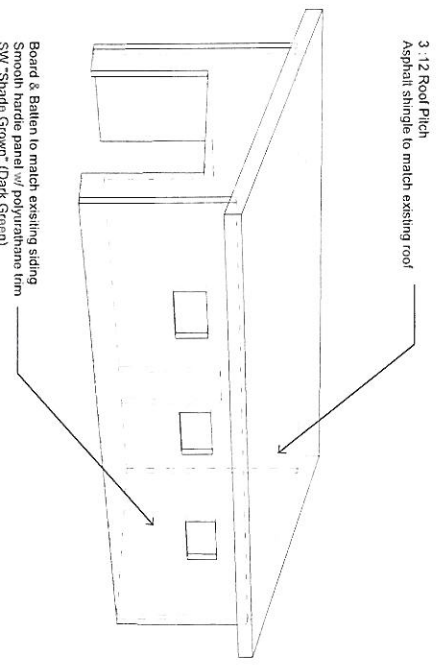
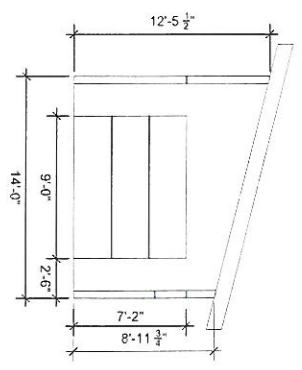
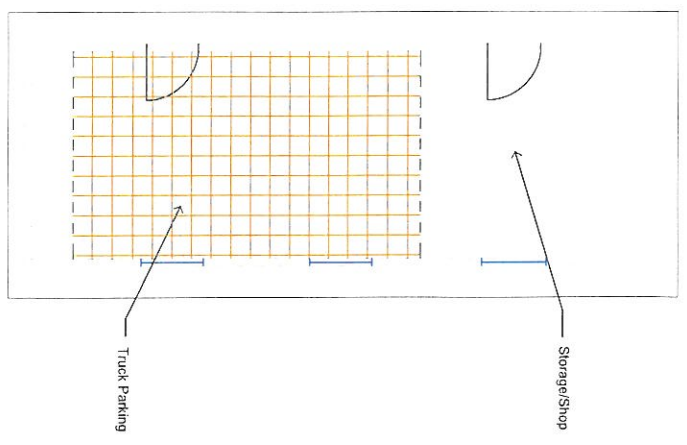
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REVISION:

001

UNIT:

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GENERAL NOTES:

A	Description	By	xx/xx/xx

PROJECT NAME:

Garage/Shop
Storage Addition

DRAWING TITLE:

9912 Foresiglen Dr
Master Site Plan

DRAWN BY:

E Day

CHECKED BY:

APPROVED BY:

DATE:
04/11/2024

CLIENT

Melissa Day
9912 Foresiglen Dr
Montgomery, OH 45242
513.884.0293 Cell
melissaday242@gmail.com

ARCHITECT:



Transsom Design/Build
513.218.1446 Cell
e:foxy@transsomdesignbuild.com

PROJECT NO:

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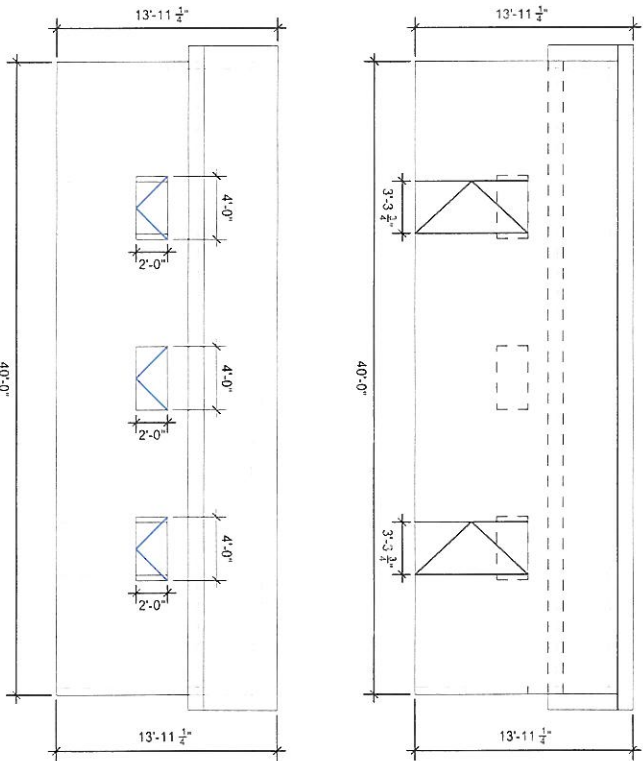
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UNIT:



PROJECT NO:

DRAWING NO:

REVISION:

UNIT:



GENERAL NOTES:

A	description	by	date

PROJECT NAME:

Garage/Shop
Storage Addition

DRAWING TITLE:

9912 Forestglen Dr
Master Site Plan

DRAWN BY:

E Day

CHECKED BY:

APPROVED BY:

DATE:
04/11/2024

CLIENT

Melissa Doy
9912 Forestglen Dr
Montgomery, OH 45242
513.894.0293 Cell
melissadoy242@gmail.com

ARCHITECT:



Transom Design/Build
513.218.1446 Cell
edoy@transomdesignbuild.com

PROJECT NO:

SCALE:
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A4

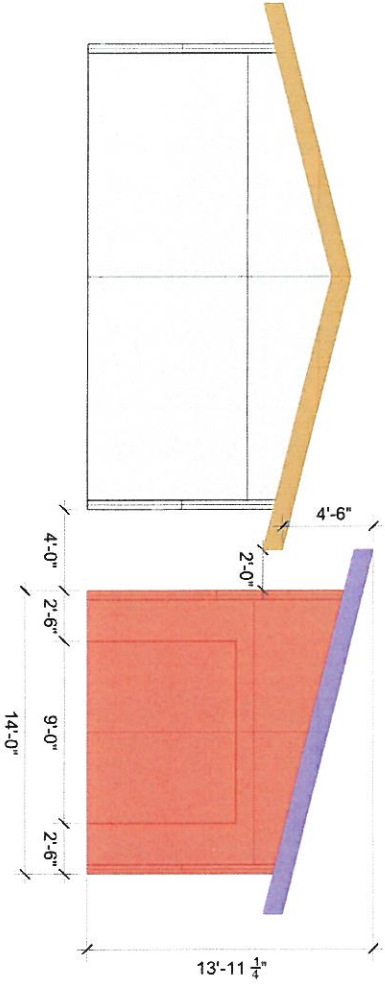
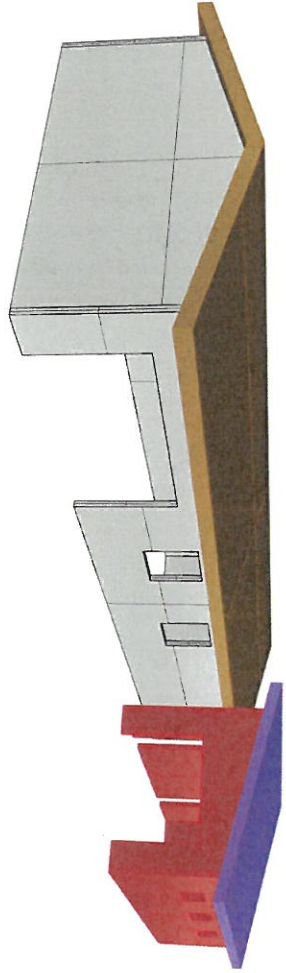
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SHEET NO
A0

REVISION:

004

UNIT:



GENERAL NOTES:

A	description	by	DATE

PROJECT NAME:

Garage/Shop
Storage Addition

DRAWING TITLE:

9912 Foresiglen Dr
Master Site Plan

DRAWN BY:
E Day

CHECKED BY:

APPROVED BY:

DATE:
04/11/2024

CLIENT

Melissa Day

9912 Foresiglen Dr
Montgomery, OH 45242
513.884.0293 Cell
melissaday242@gmail.com

ARCHITECT:



Transom Design/Build
513.218.1446 Cell
e-day@transomdesignbuild.com

PROJECT NO:

SCALE:
0:00

DRAWING NO:
005

SHEET NO
A0

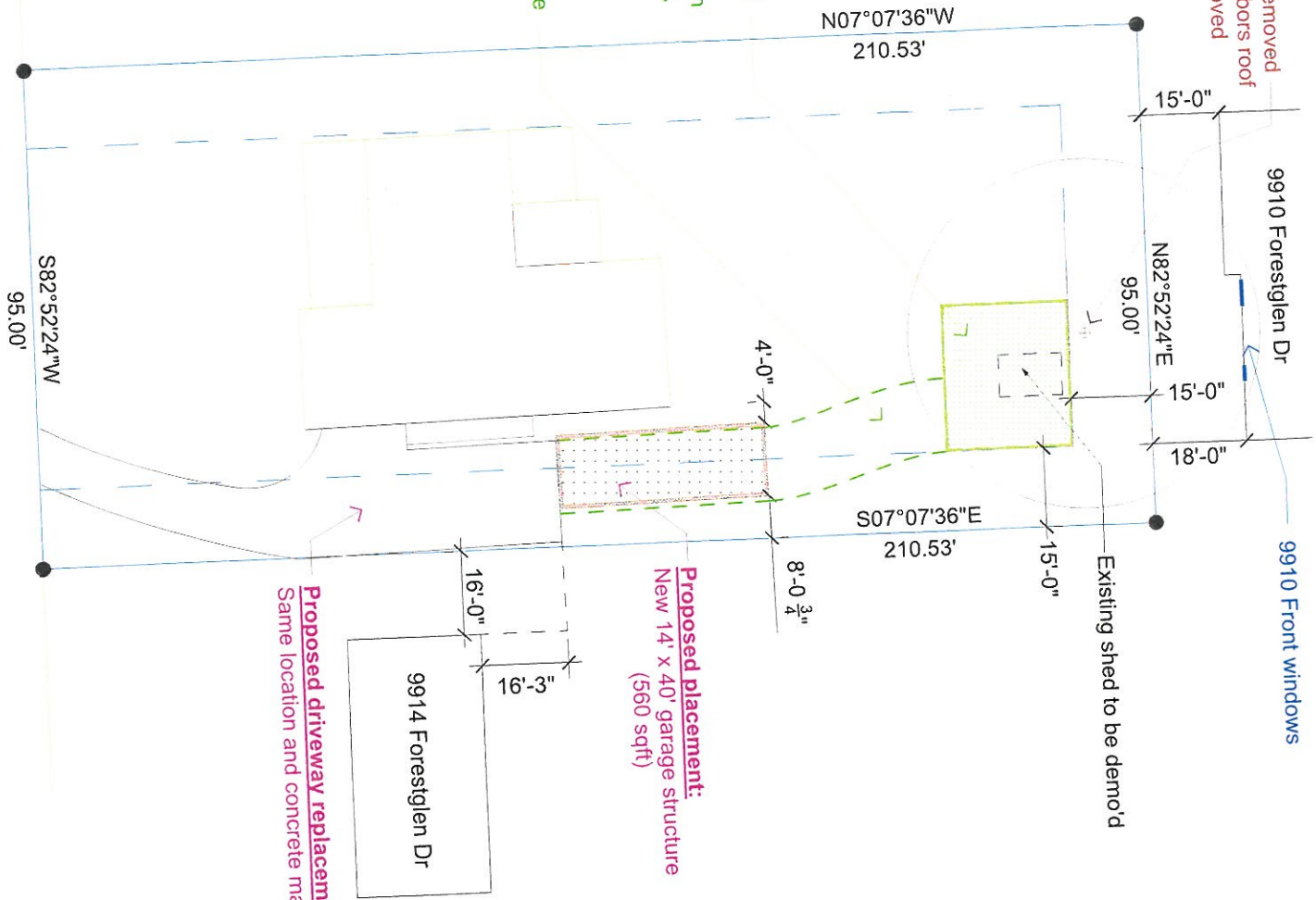
REVISION:
001

UNIT:



- 24' Dia oak (w/ 67' dia canopy) to be removed
- Canopy provides 75% shade on neighbors roof
- 2-3 smaller trees may have to be removed depending on their root structure

- Non-preferred location:**
- Studied garage/storage placement (28' wide x 24' long min)
 - Excessive slope for slab foundation
 - Rear corner 37" above front grade, which creates issues:
 - 1) Blocks 9910's front windows
 - 2) Creates more excessive storm water runoff
 - 3) Created 40% more paved surface to the driveway
 - 4) Oak tree removal creates 75% more sun exposure
 - 5) 9910 & 9914 neighbors are NOT in support



Proposed driveway replacement:
Same location and concrete material

Proposed placement:
New 14' x 40' garage structure
(560 sqft)

GENERAL NOTES:

A	description	by	xx/xx/xx

PROJECT NAME:
Site Plan

DRAWING TITLE:
9912 Forestglen Dr
Master Site Plan

DRAWN BY:
E Day

CHECKED BY:

APPROVED BY:

DATE:
04/22/2024

CLIENT
Melissa Day
9912 Forestglen Dr
Montgomery, OH 45242

513.884.0293 Cell
melissaday212@gmail.com

ARCHITECT:
Transsom
DESIGN + BUILD

Transsom Design/Build
513.218.1446 Cell
eddy@transsomedesignbuild.com

PROJECT NO.:
-

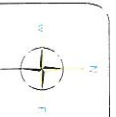
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REVISION:
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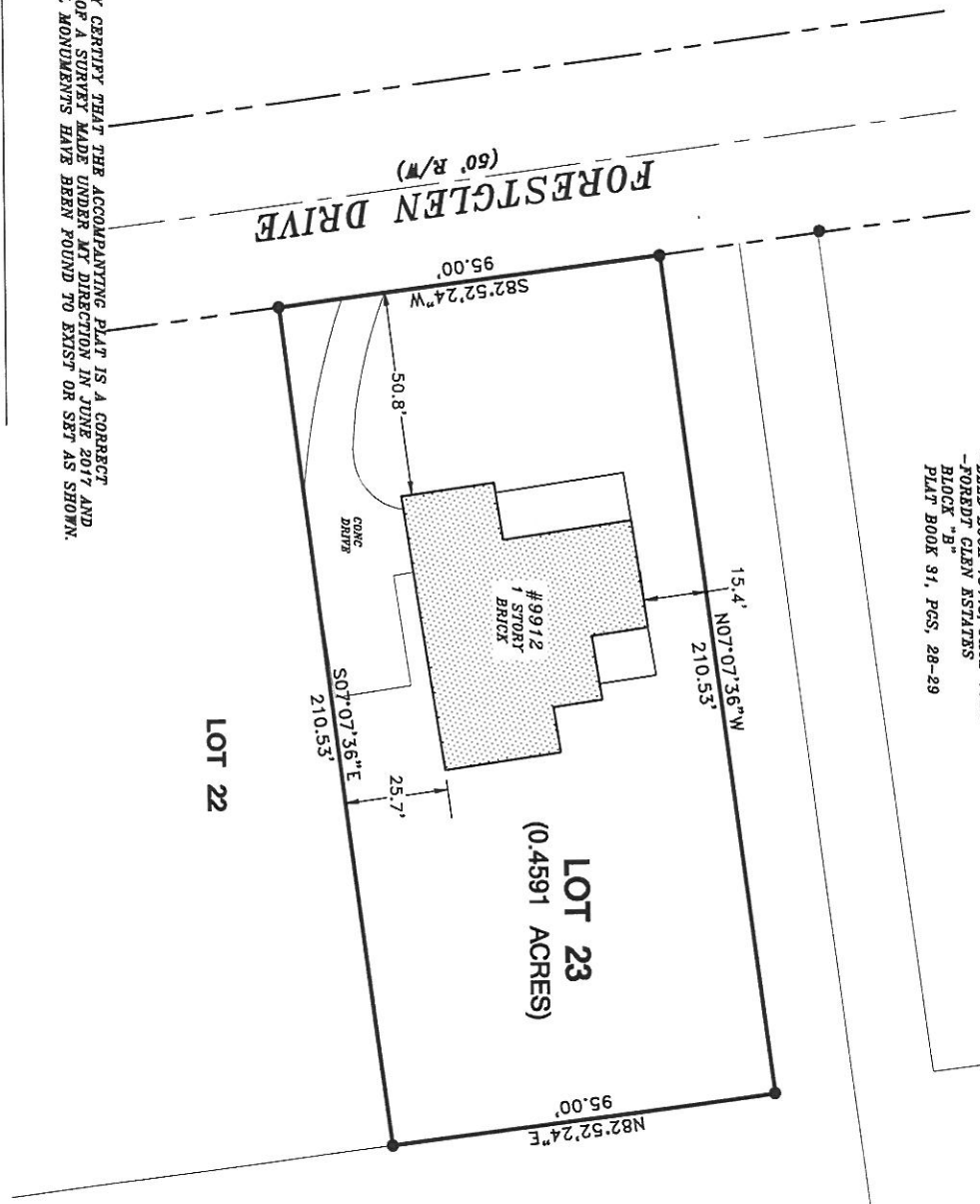
UNIT:
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BASIS OF BEARINGS:
 FOREST GLEN ESTATES PLAT
 HAMILTON COUNTY RECORDS

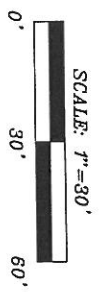
NOTES:
 OCCUPATION IN GENERAL FITS SURVEY,
 UNLESS NOTED OTHERWISE.
 DOCUMENTS USED:
 -DEED BOOK 13448, PAGE 1082
 -FOREST GLEN ESTATES
 BLOCK "B"
 PLAT BOOK 31, PGS. 28-29



SURVEY PLAT
 SITUATED IN
LOT 23
FOREST GLEN ESTATES
 SECTION 4, TOWN 4, RANGE 1
 CITY OF MONTGOMERY
 HAMILTON COUNTY, OHIO
 PARCEL 603-8-378
9912 FORESTGLEN DRIVE

CURRENT OWNERS:
DAY, ERIC J.
& MELISSA L.
D.B. 13448, PG. 1082

LOT 24
 LEGEND
 ● 5/8" IRON PIN
 SET OR FOUND



CLIENT:	DAY	
	BYRNSIDE SURVEYING, LLC	
	P.O. BOX 541066 CINCINNATI, OHIO 45254	513-474-6020
SCALE: 1"=30'	DRAWN BY: TJM	
DATE: 6/26/2017	JOB NO: 17038	

I HEREBY CERTIFY THAT THE ACCOMPANYING PLAT IS A CORRECT
 RETURN OF A SURVEY MADE UNDER MY DIRECTION IN JUNE 2017 AND
 THAT ALL MONUMENTS HAVE BEEN FOUND TO EXIST OR SET AS SHOWN.

THOMAS J. MACK, P.S. No. 7864
 DATE

9910 Forestglen Dr
Montgomery, OH 45242
April 27, 2024

Board of Zoning Appeals
City of Montgomery
10101 Montgomery Rd
Montgomery, OH 45242

RE: 9912 Forestglen

To Whom It May Concern:

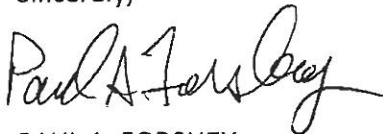
We live on a panhandle lot adjacent to 9912 Forestglen. Our house sits behind the Days' property, about 13 feet from the backyard's property line.

We have closely reviewed the Days' plans to build a structure on their property in a location that requires a variance. We support their plans.

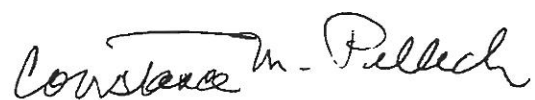
The proposed location actually enhances our enjoyment of our property, because it will allow more daylight into our property and increase the amount of open space outside our kitchen window. The City's suggested location would only do the opposite, encroaching our view outside of our kitchen window and also blocking daylight.

We ask that the Board of Zoning Appeals grant the variance to the Days.

Sincerely,



PAULA A. FORSHEY



CONSTANCE M. PILLICH

Melissa Hays

From: jennifergrote <jennifergrote821@hotmail.com>
Sent: Monday, May 20, 2024 2:18 PM
To: Melissa Hays
Subject: notice of Zoning request

You don't often get email from jennifergrote821@hotmail.com. [Learn why this is important](#)

Hello Melissa,

I am writing concerning a notice we received about a neighbors request for permits. 9912 residents are requesting permits for two structures and driveway changes at their home. We have reviewed the changes and understand the concerns of the residents of 9910 and 9914. Because of their concerns we do not support their request.

Thank you for informing us,
Daryl and Jennifer Grote

Application for Variance: *Abigail and Lance Busdeker*

May 28, 2024
Staff Report

Applicant: Abigail and Lance Busdeker
8821 Weller Road
Montgomery, Ohio 45249

Property Owner: SAME

Vicinity Map:



Nature of Request:

Property owners Abigail and Lance Busdeker, request to allow for an accessory parking area to have a setback of 13.2' from the front property line where 25' is required per Schedule 151.1009 (B) of the Montgomery Zoning Code. A second variance is being requested to allow the expansion of the legal non-conforming driveway, 20'3" x 16', to have a setback of .2' where 5' is required per Schedule 151.009(B) of the Montgomery Zoning Code.

Zoning:

This property is zoned 'A' - Single Family Residential and is used for a single-family residence. All surrounding properties are also zoned 'A' single family residential and are being used as single-family residences.

Findings:

1. The lot is approximately 20,560 square feet, which exceeds the 20,000 square foot minimum required in the 'A' District.
2. Schedule 151.1009(b) of the Montgomery Zoning Code requires accessory off-street parking to be located 25' from the front property line or the right-of-way line if the property line runs to the centerline of the street.
3. Schedule 151.1009(b) of the Montgomery Zoning Code requires driveways to have a setback of 5'.
4. The dwelling has a side loading garage with 2 enclosed parking spaces.
5. On-street parking is not permitted on Weller Road, which is also defined as a Collector Road by the Hamilton County Thoroughfare Plan.
6. The existing driveway has a legal non-conforming setback of .2' where 5' is required.

Variance Considerations:

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

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

The dwelling has a front yard setback of 49.6' where 50' is required in the 'A' District, and therefore has a legal non-conforming front yard setback. In addition, Weller Road does allow for on-street parking, and the nearest on-street parking is located in the Reserves or Tanagerwoods

subdivisions. The driveway setback is also legal non-conforming, with a distance of .2' where 5' is required.

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

Staff is of the opinion that there may not be a reasonable rate of return if the accessory off-street parking variance is not granted. The accessory off-street parking spaces will allow for additional off-street parking and/or a turnaround area for vehicles. Backing out onto Weller Road can be challenging and no on-street parking is permitted, further limiting the parking of vehicles.

Staff is of the opinion that there would be a reasonable rate of return if the driveway extension variance is not granted, as the applicant does have the ability to meet the 5' side yard setback requirement.

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

The accessory off-street parking variance request is substantial as the applicant is requesting a 74% reduction. However, the variance would not be visually substantial, as there is a significant amount of right of way along Weller Road. There is approximately 20' between the edge of pavement and the right of way line; this is approximately 7' more than what is typical. Staff is of the opinion that this is the minimum necessary to allow for two additional vehicles to be parked and/or this area to be used a turnaround space for vehicles.

The request for the driveway extension is the minimum necessary to allow 2 additional vehicles to be parked at the end of the driveway. The setback variance request is substantial, as they are requesting a 96% reduction.

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

Staff is of the opinion that the neighborhood would not be substantially altered by granting the variances, as the nearest driveway is approximately 15' from the side property line. In addition, the proposed parking pad would be located approximately 33' from the edge of pavement.

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 applicant has stated that they were not 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 the actions of the owner.

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

The accessory off-street parking variance could not be shifted back on the lot further due to the current placement of the walkway. The applicant has proposed a new walkway to somewhat curve around the proposed parking pad. In regard to the driveway extension, the applicant does have the ability to maintain a 5' side yard setback. However, the applicant is proposing the extension be flush with the existing driveway.

It is important to note that the property does have an existing driveway and two enclosed parking spaces, as required by code.

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

The intent of the accessory off-street parking setback is to reduce visual clutter by requiring parking pads to be located closer to the house and to provide for safe travel by requiring the parking pad to be located 25' from the right of way. Weller Road has a large amount of right of way and there is no sidewalk along this stretch; therefore Staff is of the opinion that approving the variance request would not increase visual clutter adjacent to the roadway.

Staff believes the intent of the 5' setback is to allow distance between impervious surfaces and improve water runoff, as well as providing an area to complete any work on a driveway or walkway without entering

onto a neighboring property. The nearest driveway is located approximately 15' from the side property line, and Staff is unaware of any drainage issues at this location.

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.

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

With regards to accessory off-street parking, the following variances have been approved:

A variance for 9991 Zig Zag Road to allow an accessory parking area to be 0' from the right of way was granted October 23, 2018.

A variance for 9978 Knollbrook Terrace to allow an accessory parking area to be 0' from the right of way was granted October 18, 2021.

A variance for 7379 Cornell Road to allow an accessory parking area to be 15' from the right of way was granted October 26, 2021.

A variance for 7875 Pfeiffer Road to allow an accessory parking area to be 2' from the right of way was granted November 23, 2021.

A variance for 7880 Pfeiffer Road to allow an accessory parking area to be 10.4' from the right of way was granted May 24, 2022.

There have been seven dimensional variances granted for driveway setbacks in the 'A' District as described below:

A variance of 5' for a length of 42.61' to allow for the construction of a new concrete driveway along the west property line at 7841 Campus Lane.

A variance of 3' for a length of 66' for a widening of a driveway at 12040 Cooperwood Lane was granted in February 2015.

A variance of 3.5' for a new driveway at 9759 Cooper Lane and 9763 Cooper Lane was granted in July 2002. Both of these lots were non-conforming to the 'A' District in regards to lot width and side-yard setbacks. The lot width of both properties was approximately 77' and both homes were setback from the side property line approximately 10.5'.

A variance was granted for a property at 9073 East Kemper Road in August 2006 to allow the property owner to expand the turning area for an existing driveway. The turning area was permitted to be 2' from the side property line. In the motion, the Board stated that they believed the applicant had a special circumstance due to poor visibility exiting onto a Class 2 road (E. Kemper Road). The Board also granted a variance of 0.5' to allow for the driveway apron to be 4.5' from the side property line.

A variance was granted for 9590 Ross Avenue to allow a driveway to have a setback of 3' for a length of 125' in 2015.

A variance was granted for 9778 Ross Avenue to allow a portion of a driveway to have a setback of 2'4" in 2017.

A variance to allow a driveway and walk area to be setback 2'6" from the side property line at 8307 Turtlecreek Lane was approved in 2022.

Three driveway setback variances have been denied in the 'A' District, as described below:

A variance was denied in February of 2013 for a property at 10413 Birkemeyer Drive to allow for a new driveway to encroach a maximum of 2.5' into the required 5' side-yard setback. This project was a teardown/rebuild on a conforming lot.

A variance was denied for 8718 Tanagerwoods Drive to allow for a driveway extension to be setback 3.76' for a length of 21' in 2015.

A variance was denied for 9047 E. Kemper Road to allow for a driveway for a new single-family dwelling to have a setback of 2' in 2015.

Staff Comments and Recommendations

Staff believes the variance request for the accessory off-street parking to have a setback of 13.2' would not be detrimental to surrounding properties and would allow for both additional parking and the ability to turn around a vehicle within the driveway. A practical difficulty has been established due to the absence of on-street parking, the high volume of traffic, legal non-conforming front yard setback, and large amount of right of way along Weller Road.

Staff believes that the driveway extension encroachment into the 5' setback would not negatively impact the adjacent property or neighborhood due to the large distances between driveways, but there is a concern of setting precedence and the lack of a practical difficulty. However, there are six homes located on this block and three of the six have legal non-conforming driveway setbacks.

Approving an accessory off-street parking area to be 13.2' from the front property line where 25' is required per Schedule 151.1009(B) of the Montgomery Zoning Code, could be justified by criteria #1-10.

Approving a driveway extension of 20.3' in length with a setback of .2' where 5' is required per Schedule 151.1009(B) of the Montgomery Zoning Code, could be justified by criteria #1, 4, 5, 6, 7, and 9.



CITY OF

MONTGOMERY

A CHARMING PAST. A GLOWING FUTURE.

APPLICATION FORM

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

Project Address (Location): 8821 Weller Rd.

Project Name (if applicable): DRIVEWAY SAFETY

Auditors Parcel Number: 603-0024-0153-00

Gross Acres: .472 Lots/Units 1 Commercial Square Footage _____

Additional Information: _____

PROPERTY OWNER(S) Abigail Ann Lange Busdeker Contact Abigail Busdeker

Address 8821 Weller Rd. Phone: 312-919-0078

City Montgomery State OH Zip 45249

E-mail address JANSENBUSDEKER@GMAIL.COM

APPLICANT Abigail Jansen Busdeker Contact _____

Address 8821 Weller Rd. Phone: 312-919-0078

City Montgomery State OH Zip 45249

E-mail address JANSENBUSDEKER@GMAIL.COM

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.

Property Owner Signature

[Handwritten Signature]

FOR DEPARTMENT USE

ONLY

Print Name

Abigail C. Jansen Busdeker

Date

May 9, 2024

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




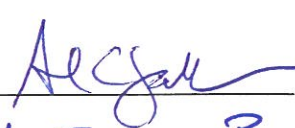
CONSENT OF OWNER(S) TO INSPECT PREMISES

To: City of Montgomery Board of Zoning Appeals Members and Staff
City Hall
10101 Montgomery Road
Montgomery, Ohio 45242

Re: Review Subject Site

Dear Members and Staff:

As owner(s) of the property located at 8821 Welles Ro., we hereby grant permission to Members of the Board of Zoning Appeals and City of Montgomery Staff to enter the property for visual inspection of the exterior premises. The purpose of said inspection is to review the existing conditions of the subject site as they relate to the application as filed to the Board of Zoning Appeals.

Property Owner(s) Signature  
Print Name LAMLE BUSDEKER ASIBAIL JANSEN BUSDEKER
Date 5/1/24

Board of Zoning Appeals Members:

Mary Jo Byrnes
Tom Molloy
Jade Stewart
Steve Uckotter
Richard White

Consideration for Approval of Dimensional Variances

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

1. Whether special conditions and circumstances exist which are peculiar to the land or structure and which are not applicable to other lands or structures in the same zoning district. Examples are narrowness, shallowness or steepness of the lot, or adjacency to non-conforming uses.

DRIVEWAY MODIFICATION IN REAR/SIDE OF HOME TO IMPROVE VEHICULAR SAFETY.

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

N/A - THIS IS PURELY A PUBLIC SAFETY ISSUE.

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

No

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

No. ONLY PARTIALLY VISIBLE FROM THE STREET.

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

No



CITY OF

MONTGOMERY

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

No

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

N/A

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

THE "DO NOTHING" SCENARIO INVOLVES THE CONTINUANCE OF A VEHICLE BACKING INTO AN INCREASINGLY BUSY STREET. (WELLS RD.)

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

YES - THE ALTERATION PROPOSED IMPROVES PUBLIC SAFETY.

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

No

May 9, 2024

Dear Montgomery Zoning Commission,

Thank you for considering our driveway variance request at 8821 Weller Road. We purchased our home in 2012 and immediately became active members in the community. Our three children, ages 13, 11 and 9, all attend Sycamore schools. Lance graduated from the Montgomery Community Leadership Academy and has coached many sports through the years including baseball, basketball and lacrosse. Abby is an active volunteer at Sycamore Schools including sitting on the Sycamore Advisory Council and volunteering for Sycamore Ambassadors. Montgomery is our home and our community.

We are seeking a driveway variance to ensure the safety of our children, family and friends. Currently, our driveway is single lane and poses several safety issues.

- Our driveway sits on a blind hill. As we exit the driveway, we must inch out of the driveway and watch as cars come over the hill to our north. As we are sure Montgomery law enforcement can attest, drivers seldom follow the 25 MPH speed limit and periodically cars are going 35 - 40 MPH. Each week we have "close calls" as cars speed up this blind hill.
- Tree line along the road. While this makes the road aesthetically beautiful, the trees greatly impede our view of traffic coming from both the north and the south.
- Since the driveway is single lane, it is impossible to turn around to exit the driveway front facing. Currently we turn around in our front lawn, especially during rush hour and times when the park and Good Shepherd are busy. Backing out of the driveway during these busy times is nearly impossible.
- Weller Road does not have street parking. Friends and family must park in our driveway. Space is limited for parking and we must help them pull out of the driveway to ensure a safe exit.
- The most critical safety issue is that of new drivers. Our son, and later our two daughters, will be driving before we know it. Our children and their friends should not be pulling out blindly from our driveway. Even the most seasoned drivers have difficulty. The current road situation makes this an even more treacherous maneuver for young drivers.

We did consider a circle drive as an alternative solution. In doing our research, there are two main barriers to this solution.

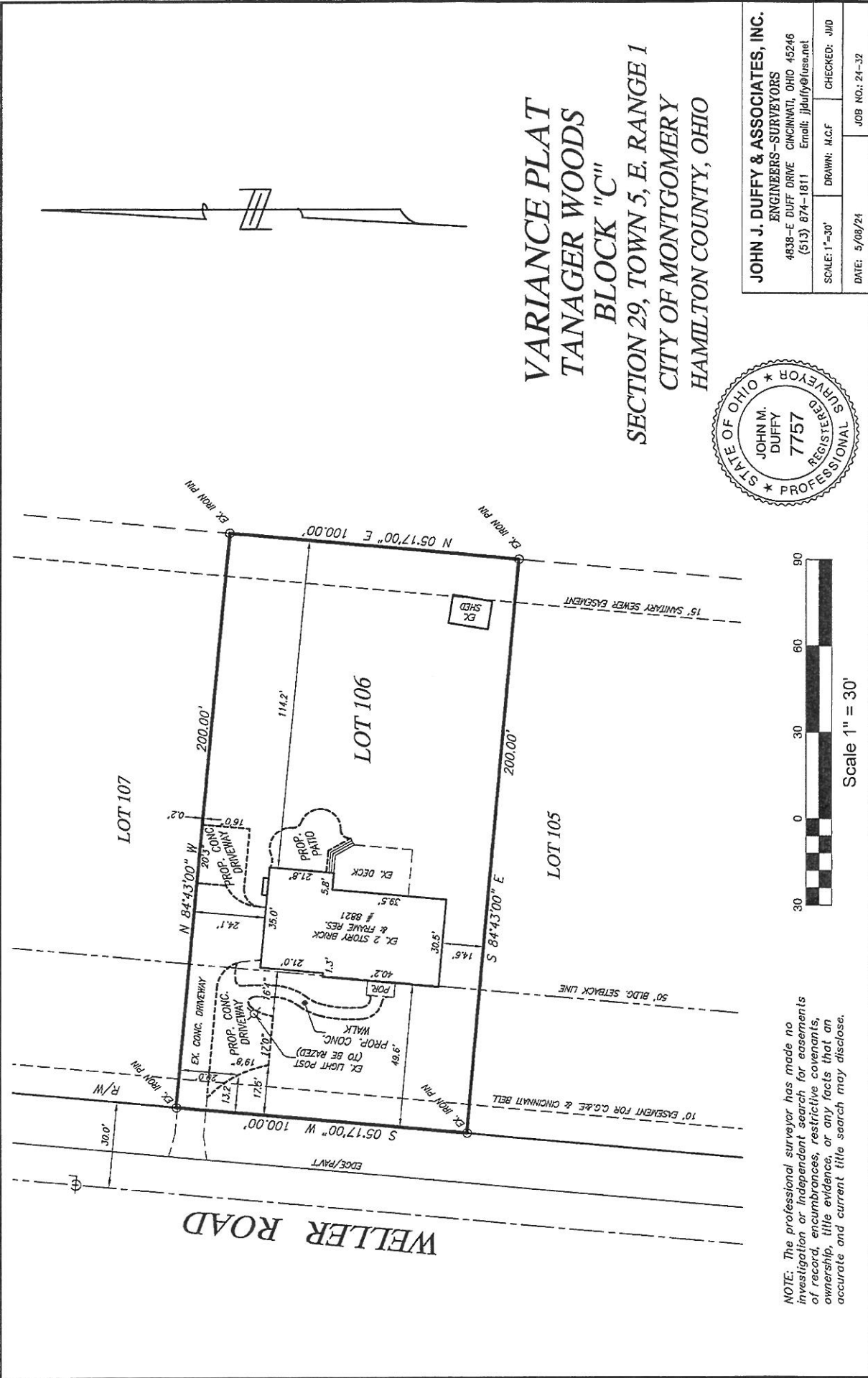
- The circle drive would be immediately over our water line. If access to the water line was needed, it would be necessary to destroy a portion of the driveway. This would result in tens of thousands of additional dollars in concrete to repair.
- The cost for the circle drive was *considerably* more expensive therefore, putting it well outside of our budget.

We have worked diligently with Seilers Landscaping and RCK Concrete to create a plan that addresses the safety concerns yet is visually appealing. The combination of extending the driveway and adding the pad will allow us and others to safely exit our driveway. Our hope is to stay in our home within the Montgomery community. Thank you for considering this variance so we can make our home safe for family and friends.

With gratitude,

Lance and Abby Busdeker



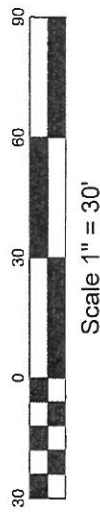


VARIANCE PLAT
 Tanager Woods
 Block "C"
 Section 29, Town 5, E. Range 1
 City of Montgomery
 Hamilton County, Ohio

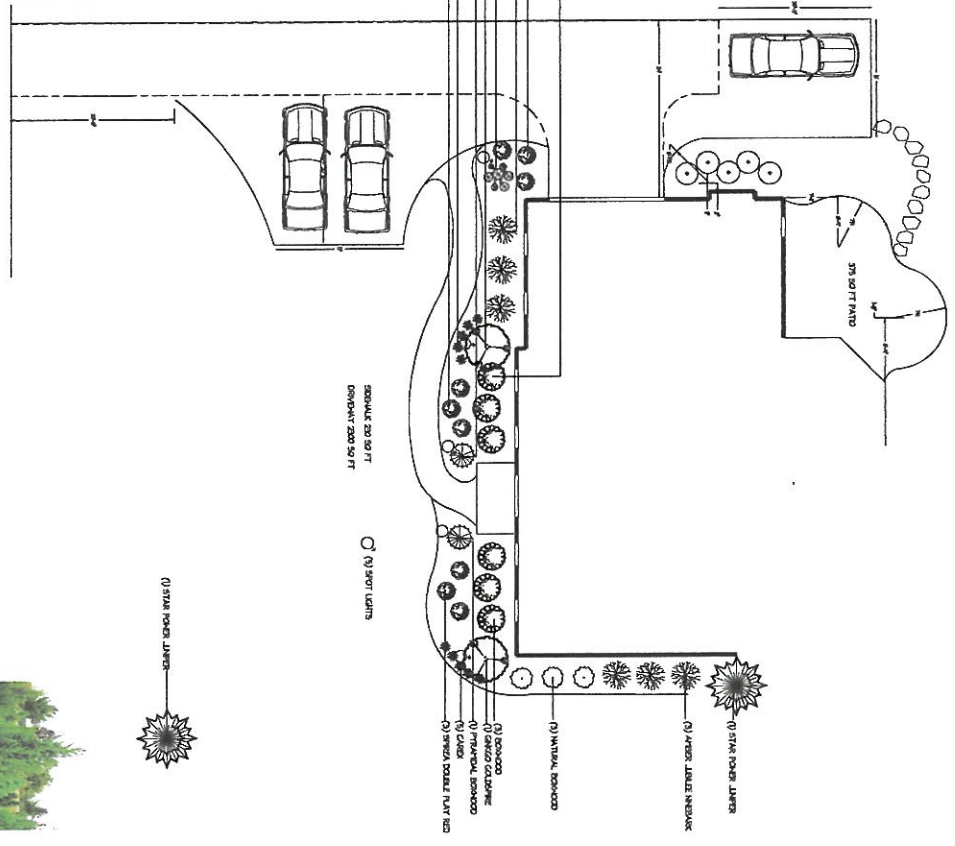
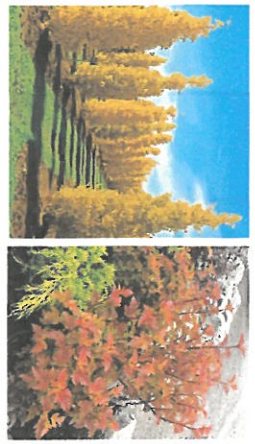


JOHN J. DUFFY & ASSOCIATES, INC.
 ENGINEERS-SURVEYORS
 4638-E DUFF DRIVE CINCINNATI, OHIO 45246
 (513) 874-1811 Email: jiduffy@fuse.net

SCALE: 1"=30' DRAWN: M.C.F. CHECKED: JUD
 DATE: 5/08/24 JOB NO.: 24-32



NOTE: The professional surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership, title evidence, or any facts that an accurate and current title search may disclose.



SEILER'S LANDSCAPING
A DIVISION OF SEILER'S ENVIRONMENTAL SERVICES

791-2820
4035 DEER PARK AVENUE CINCINNATI, OH 45236

NO.	DATE	DESCRIPTION



BUSDECKER RESIDENCE
8821 WELLS RD
MONTGOMERY OH 45249

THIS DRAWING IS THE PROPERTY OF SEILER'S LANDSCAPING AND MAY NOT BE USED OR REPRODUCED WITHOUT ITS EXPRESSED PERMISSION.

Client: **SWIN**
Address: **8821 WELLS RD**
City: **MONTGOMERY OH**
Phone: **791-2820**

Example of letter given to neighbors at 8815 and 8825 Weller Rd

Lance and Abby Busdeker
8821 Weller Rd.
Montgomery, OH 45249
04/26/2024

Dave and Mary
8815 Weller Rd.
Montgomery, OH 45249

Dear Dave and Mary:

We wanted to make you aware we are working with the City of Montgomery on a zoning variance to improve the safety of our driveway. As you know, our driveway requires us to back onto Weller Rd which can be dangerous for the following reasons:

- The amount and speed of traffic on Weller Rd.
- The blind spot due to the hill north of our driveway.
- The visual obstruction caused by the tree line along the road.

Hayes, Stella, and Maeve are future drivers. In order to improve the safety, we are looking to replace our driveway and create an area for us to turn around. This will allow us to exit our driveway facing forward. As part of this plan, we will be modernizing our back patio, sidewalk, and landscaping (inclusive of the south facing side of the house which faces you). We have included a copy of our plan for your review.

Having been great neighbors of ours, we want to proactively provide you the details to ensure you do not have any apprehensions. If necessary, we would be more than happy to discuss in more detail prior to our May 28 meeting with the city.

Thank you,

Lance and Abby Busdeker

Melissa Hays

From: jwaggoner.1@fuse.net
Sent: Monday, May 20, 2024 8:56 PM
To: Melissa Hays
Subject: Variance for 8821 Weller Rd

You don't often get email from jwaggoner.1@fuse.net. [Learn why this is important](#)

Dear Melissa,

My name is Jason Waggoner. I live at 11708 Laurelview Dr. I received in the mail a letter about the notice of a public meeting on Tuesday May 28, 2024, for a proposed variance for the property on 8821 Weller Rd.

I am writing to state that I support this variance request and have no issues with the proposed design. Please feel free to contact me for any further information.

Thank you!

Regards,
Jason Waggoner

513-478-9017

CITY OF MONTGOMERY
BOARD OF ZONING APPEALS

Application for Variance: *Former Don's Auto*
9393 Shelly Lane

May 23, 2024
Staff Report

Applicant: Mike Wentz and Eric Hines
7213 Remington Road
Montgomery, Ohio 45242

Property Owner: James Tucker and David Shannon
5485 Brewer Road
Mason, Ohio 45040

Vicinity Map:



Nature of Request:

The applicants and potential buyers, Mike Wentz and Eric Hines, are requesting a variance to provide no on-site parking spaces, where Schedule 151.3204 and Section 151.3207 of the Montgomery Zoning Code requires a minimum of 10 spaces in the Outer Old Montgomery District for the proposed office and art gallery uses.

Zoning:

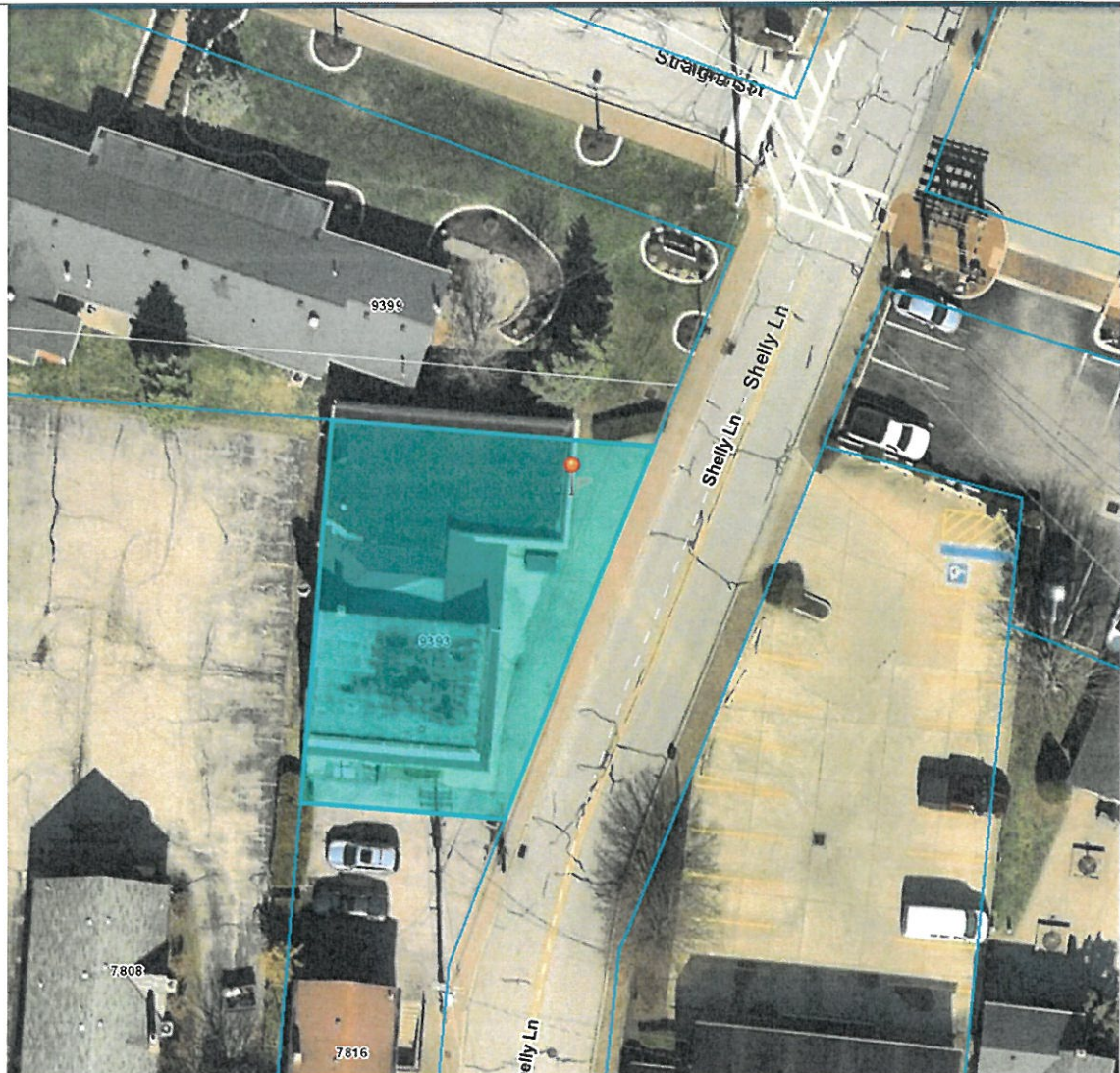
The property is zoned 'OM' - Outer Old Montgomery. Office and art galleries are permitted uses within the district. The property is also located in the Heritage District and as such the building design is subject to review by the Landmarks Commission. The property is not a Landmark or contributing structure. The property to the north is zoned 'OM' - Outer Old Montgomery and used for Krombholz Jewelers and public parking. The property to the south is zoned 'OM' - Outer Old Montgomery and is currently vacant and the Former Village Hall Landmark Structure. The property to the west is zoned 'OM' - Outer Old Montgomery and is used for Le Salon. The property to the east across Shelly Lane is zone 'OM' - Core Old Montgomery and is used for various office uses.

Findings:

1. The structure has served as the home of Don's Auto Repair for several years. Recently the owners have decided to retire and listed the business for sale. An Auto Repair use is non-conforming in the Outer Old Montgomery District.



2. A Montgomery Resident, Eric Hines, and a longtime Montgomery business owner, Mike Wentz, have an option to purchase the building with the intent to convert the building into an art studio and an office use for Wentz Design. Office and art galleries are permitted uses within the district; however, regulations would require that parking requirements be met with any proposed change of use. The prospective buyers' option to purchase lapses at the end of May and the applicants are requesting a parking variance for their proposed uses as zero parking spaces can fit on the current site.



3. The site is currently one parcel, and the property is approximately 0.099 or approximately 4,312 square feet.
4. The property is located on Shelly Lane approximately 80 feet from a public parking lot with approximately 222 parking spaces.
5. The applicant is proposing to remodel the existing commercial structure as well as construct a second story on the northern two thirds of the structure. The building was built in 1936 and is 3,648 square feet according to Auditor's data.
6. The applicant has provided a layout for the remodeling to be contained within the existing footprint. Approximately 1,000 square feet of a new

enclosed second story space will be added along with almost nine hundred square feet of exterior deck.

7. The architecture, building materials, signage and colors were approved by Landmarks Commission on May 8th, 2024.

Variance Considerations:

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

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

The building is unique as it occupies almost the entirety of a small lot located in our historic downtown that currently provides no onsite parking. For a number of years, it was a non-conforming auto repair use that utilized the Shelly Lane public parking for customers parking.

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

It is our understanding that the property has been for sale for a number of months without any viable buyer interest in continuing with auto repair. Staff believes the property will need to be changed to a permitted use in order to yield a reasonable rate of return. As such, any future use would require granting a parking variance to allow for a reasonable rate of return.

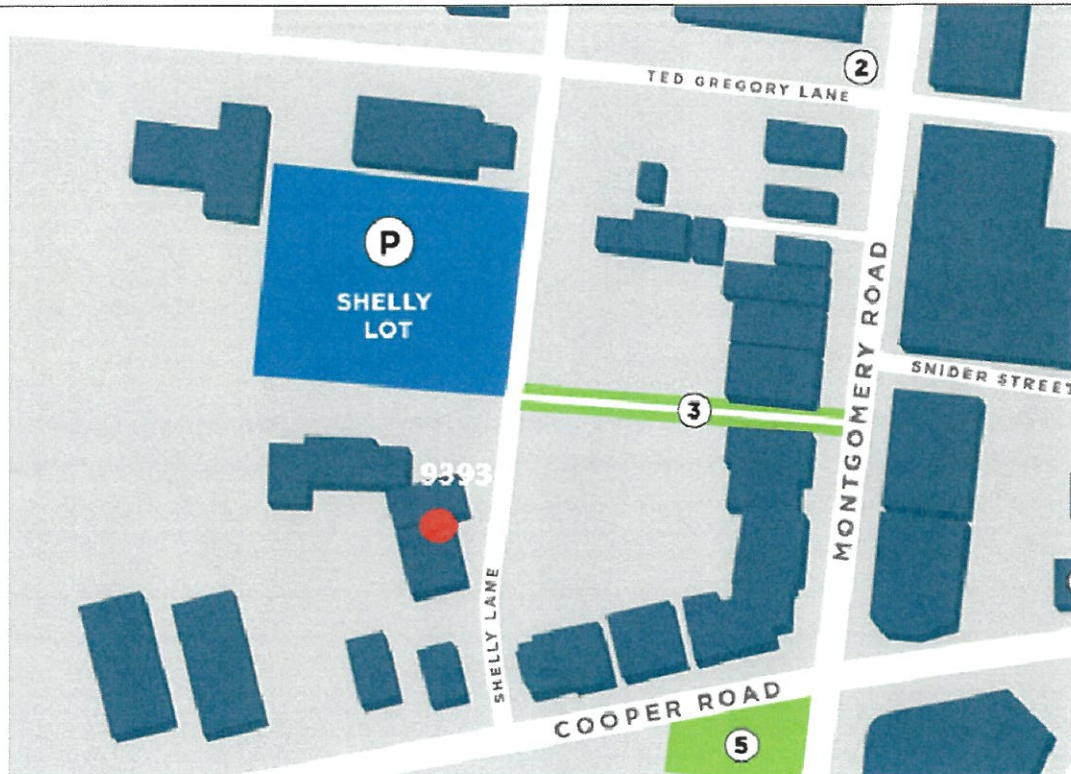
3. *Is the variance substantial? Is it the minimum necessary?*

When taken as a total, the cumulative amount of the variance is substantial as the applicant is asking to provide zero parking spaces on site. As analyzed by staff a total of 19 spaces would be normally required for the combination of office space (Wentz Design) and retail use (Art Studio). However, the applicant is entitled by right to a 50% reduction in parking that equals 10 total spaces required per rounding requirements.

An important question is whether the proposed zero parking spaces is the minimum amount necessary. The applicant is not proposing to increase the building footprint and Staff believes that providing no parking spaces on site is the minimum necessary as it is not currently viable to provide any parking where the building occupies approximately 85% of the entirety of a small parcel. Even if the structure were to be demolished, due to the small size of the lot, it is most likely any future use would necessitate a parking variance of some amount.

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 by granting the variance. The building/site has existed in this manner with no onsite parking for a number of years. Further, the potential buyers are proposing to remodel and add to the existing structure to aesthetically fit into the neighborhood as recently approved by the Landmarks Commission thus enhancing the aesthetic character. With the close availability of a large public parking area nearby, the parking characteristics will continue to exist status quo from the previous use. Staff believes the impact on the public parking lot may even be lessened by the change of use since cars awaiting repairs will not be left overnight and the use of the public parking lot will primarily occur in the non-peak daytime hours.



Section 151.1201(G) recognizes that the 'OM' Old Montgomery District purpose is "(G) To provide an Old Montgomery District (OM) that preserves the historic fabric of the downtown area by maintaining retail and office uses along the primary street frontages, reducing the parking requirements and allowing for buildings to be located closer to the street.

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

Granting the variance would not have a negative impact on government services.

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

The potential owners are aware of parking requirements and are seeking variance approval prior to formalizing a purchase as any use

other than a non-conforming auto repair would necessitate a parking variance.

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

The nature of the proposed reuse and remodeling of the building drives the need for effective parking for customers. Any use, beyond that of a non-conforming use, would require a special condition to allow for a parking variance by the owner. It should be noted that the intent of the code is to sunset non-conforming uses into conforming uses over time.

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

With no options for parking onsite and no apparent interest to continue the current non-conformity, the predicament cannot be obviated through some other method.

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

Although the number of parking spaces are clearly defined by the Code, Staff is of the opinion that the spirit and intent of the Zoning Code would be observed, and substantial justice done by granting the variance. The Code does recognize in Section 151.3207 that due to the compact character of the Old Montgomery District, a by right reduction is permissible in the amount of 50% to accommodate and complement the character of the Historic District. It further details the rationale that Planning Commission can additionally reduce parking during development plan review based on a variety of factors (This remodel application is not subject to development review). Such factors consider the availability and accessibility of public parking spaces, the character of the proposed use with the design of the building to reinforce the compact main street environment, and the potential negative impact to the character of the district if the requisite number of parking spaces is provided.

It should be emphasized that if the use were to be sold and continued as an auto repair no onsite parking would be required due to the non-conforming status and the off-site public parking could continue without any Board or Commission approval.

In one respect, the applicant is trying to comply with the spirit of other Code requirements by remodeling to fit the historic character and adding on to the building that requires at minimum 2 stories. Regardless of the 2nd floor addition, which would slightly increase the number of parking spaces required, parking requirements could still not be met to Code standards onsite.

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

Many uses in the historic downtown have received parking reduction approval or variances associated with parking reductions. Various past parking variance reductions have been additionally approved by the Board of Zoning Appeals:

- Previous variances were approved at 9347 Montgomery Road to allow 12 less parking spaces than required.
- A variance approved at 9770 Montgomery Road to allow 14 less parking spaces (78 Required).
- A variance approved at 9572 Montgomery Road to allow for what appears to be 4 less parking spaces.
- A variance approved at 9810 Montgomery Road to allow a reduction of 3 spaces.
- A variance approved at 9573 Montgomery Road to allow a reduction of 3 spaces.

While the request to reduce the number of spaces provided to zero is unique, granting a parking reduction variance would not grant any special exceptions regarding use.

Staff Comments

The applicant is proposing to significantly rehabilitate and refresh an existing building on a lot that was most recently utilized as a non-conforming auto repair facility at 9393 Shelly Lane. The proposed structure is evolving from a non-descript block design into an enhanced office/retail building that has

the feel of a modern farmhouse design that will serve to augment the historic district. They are asking for approval for this application to meet a deadline at the end of May regarding an option to purchase.

The Zoning Code recognizes the smaller and more compact nature of the district and that circumstances may warrant a parking reduction, even allowing a 50% reduction in parking by right. This site is unique to downtown due to the small size of the parcel in comparison to the size of the structure combined with a close proximity to a large public parking area where approximately 222 parking spaces exist.

Staff believes that the remodeling proposal is very well designed to be complementary to the historic district and that the request is essentially mirroring the current status quo of the former Don's Auto that utilized parking in the public area.

Granting the variances to allow for 0 parking spaces to be permitted at 9393 Shelly Lane may be justified by criteria #1, 2, 3, 4, 5, 7, 8, 9, & 10. Should the Board grant the variance, Staff would recommend the following condition:

- To allow for future flexibility, if the building is used for retail in its' entirety or a similar use with a parking requirement of 4 spaces per 1,000 square feet, zero on-site parking spaces would be required. However, if a more intense use is proposed in the structure, additional consideration and approvals would be required, as necessary.

Eric Hines
7813 Remington Road
Montgomery, OH 45242

Mike Wentz
7813 Ted Gregory Lane, Suite C
Montgomery, OH 45232

May 7, 2024

Re: Application Requirements for a dimensional variance

Dear Board of Zoning Appeals Members,

We are requesting a variance to permit the future tenants of 9393 Shelly Lane (Eric Hines, The Studio; Mike Wentz, WentzDesign) to proceed with a “no parking” variance and utilize city public parking to accommodate workers/customers. The Studio will be my wife’s art gallery and also provide classes and workshops for clients. WentzDesign will continue to operate as an architectural design firm. Finally, our middle parcel will provide space for events.

The current owners are James Tucker and David Shannon and it is our plan to take ownership May 31st if all goes according to plan, but it is possible that this may spill over into June. We currently have access to the building, and we are fine providing access to the property as needed by the city.

We feel very good that the close and available city parking will be more than adequate to accommodate our workers and clients given the types of businesses we intend to operate, and we appreciate the city’s review of our request. Attached you will find our signed contract for purchase, detailed plans for the building and your requested application form.

Respectfully,

The image shows two handwritten signatures in black ink. The signature on the left is cursive and appears to read 'Eric Hines'. The signature on the right is more stylized and appears to read 'Mike Wentz'.

Eric Hines and Mike Wentz

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.

We intend to preserve the outer footprint of the building and it currently takes up the majority of the lot leaving no places to park.

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

We believe there is sufficient public parking to support our businesses.

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

We are requesting a variance for no parking.

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

This request will not alter the character of the neighborhood.

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

This request and/or variance will not impact the delivery of government services.



CITY OF

MONTGOMERY

A CHARMING PAST. A GLOWING FUTURE.

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

We were made aware of the need for a variance prior to purchase.

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

No special conditions exist as a result of the owner

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

There is no existing predicament for the owner so long as public parking is available.

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

In light of the building footprint, it makes sense to leverage the adequate available public parking since reducing the building footprint would not support the proposed businesses.

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

I believe others have been provided similar variances to accommodate unique buildings and parking challenges in the Historic District.



EXISTING
NOT TO SCALE

9393 SHELLY LANE

EXTERIOR MATERIALS

ITEM	MANUFACTURER	TYPE	COLOR
ROOFING (VISIBLE)	TDD	24 GAUGE FL / STANDING SEAM METAL / C SPACING	MEDIUM GRAY
ROOFING (NOT VISIBLE)	TDD	RUBBER MEMBRANE	GRAY
WINDOWS	MARVIN	INFINITY - FIBERGLASS	CHARCOAL OR BLACK
FRONT DOOR	PELLA	ALUMINUM CLAD - WOOD	CHARCOAL OR BLACK
GARAGE DOORS	AE DOOR & WINDOW CO	GLASS - COPLAY MODEL 004	CHARCOAL OR BLACK
SIDING	HARDI	TRIM & BOARD	SW SWISS COFFEE 02 18 (OFF WHITE) - TO MATCH CHU
EXISTING BRICK	-	-	PAINTED - SW KENDALL CHARCOAL HC - 166 (MEDIUM/DARK GRAY)
EXISTING CHU	-	-	SW SWISS COFFEE 02 45 (OFF WHITE) - TO MATCH HARDI TRIM
GUARDRAIL	CUSTOM	STEEL	PAINTED BLACK

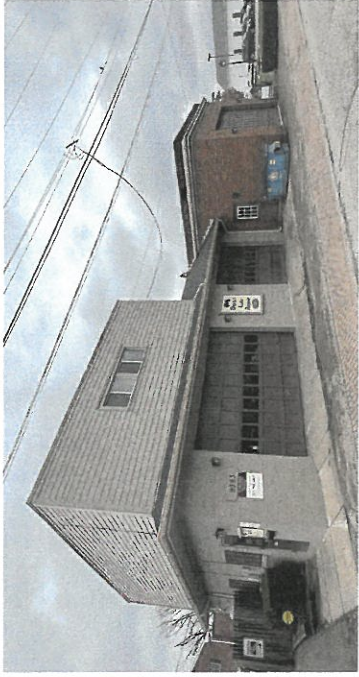
NOTE: WINDOW COLOR SHALL MATCH GARAGE DOOR COLOR



EXTERIOR RENDERING (EAST)
NOT TO SCALE



APRIL 23, 2024



EXISTING
NOT TO SCALE

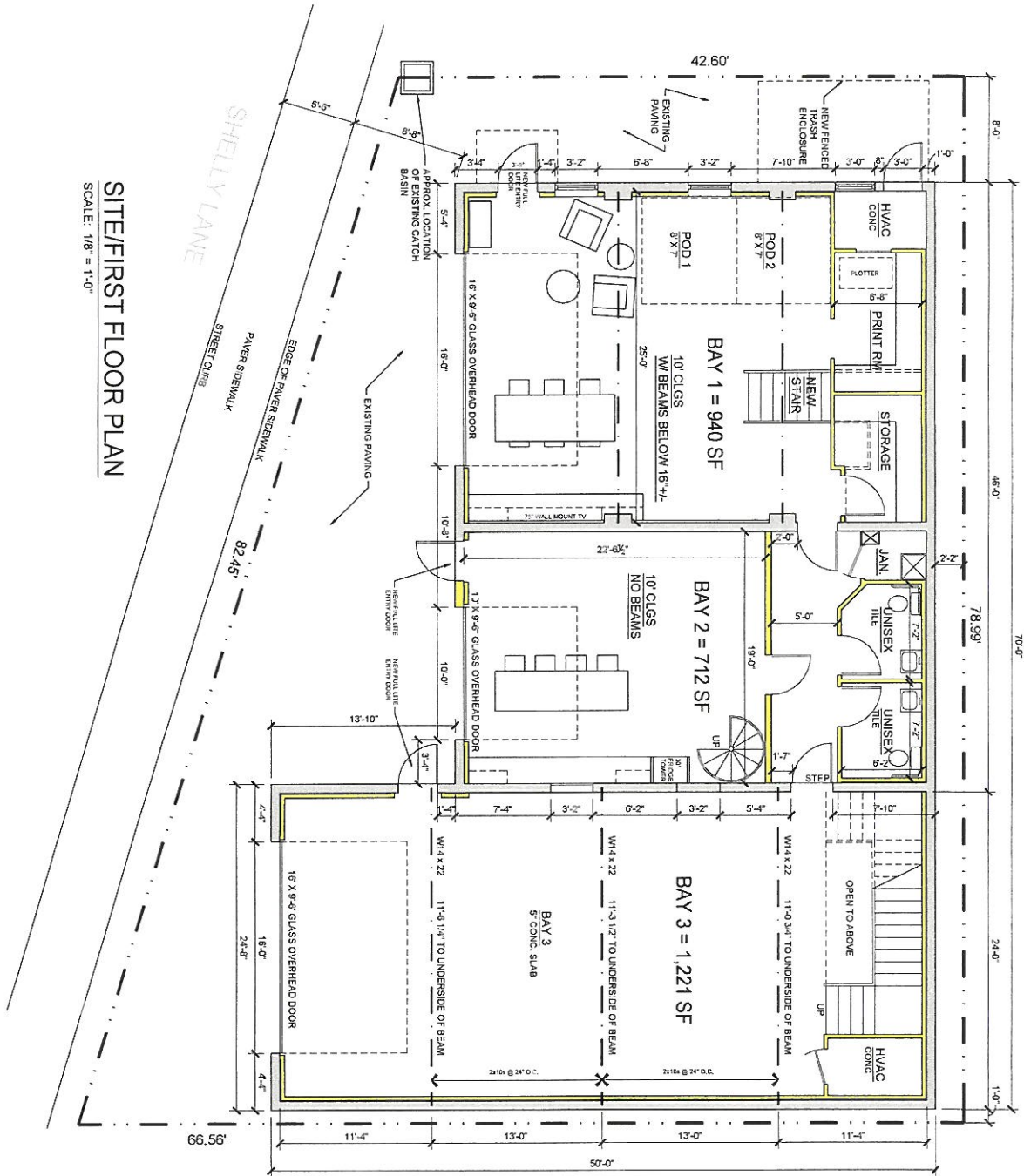
EXTERIOR MATERIALS

ITEM	MANUFACTURER	TYPE	COLOR
ROOFING (VISIBLE)	TBD	PAVING CLAY FINANCING BEAM METAL DE SPACING	MEDIUM GRAY
ROOFING (NOT VISIBLE)	TBD	RUBBER MEMBRANE	GRAY
WINDOWS	MARVIN	INFINITY - FIBERGLASS	CHARCOAL OR BLACK
FRONT DOOR	PELLA	ALUMINUM CLAD - WOOD	CHARCOAL OR BLACK
GARAGE DOORS	AE DOOR & WINDOW CO	GLASS - COPOLYMER MODEL 004	CHARCOAL OR BLACK
SIDING	HARDI	TRIM & BOARD	SWISS COFFEE CC 45 PAINTED - SWISS COFFEE CC 45 TO MATCH HARDI TRIM
EXISTING BRICK	-	-	PAINTED - SWISS COFFEE CC 45 TO MATCH HARDI TRIM
EXISTING CHU	-	-	PAINTED - SWISS COFFEE CC 45 TO MATCH HARDI TRIM
GUARDRAIL	CUSTOM	STEEL	PAINTED BLACK

NOTE: WINDOW COLOR SHALL MATCH GARAGE DOOR COLOR



EXTERIOR RENDERING (SOUTH EAST CORNER)
NOT TO SCALE



SITE/FIRST FLOOR PLAN

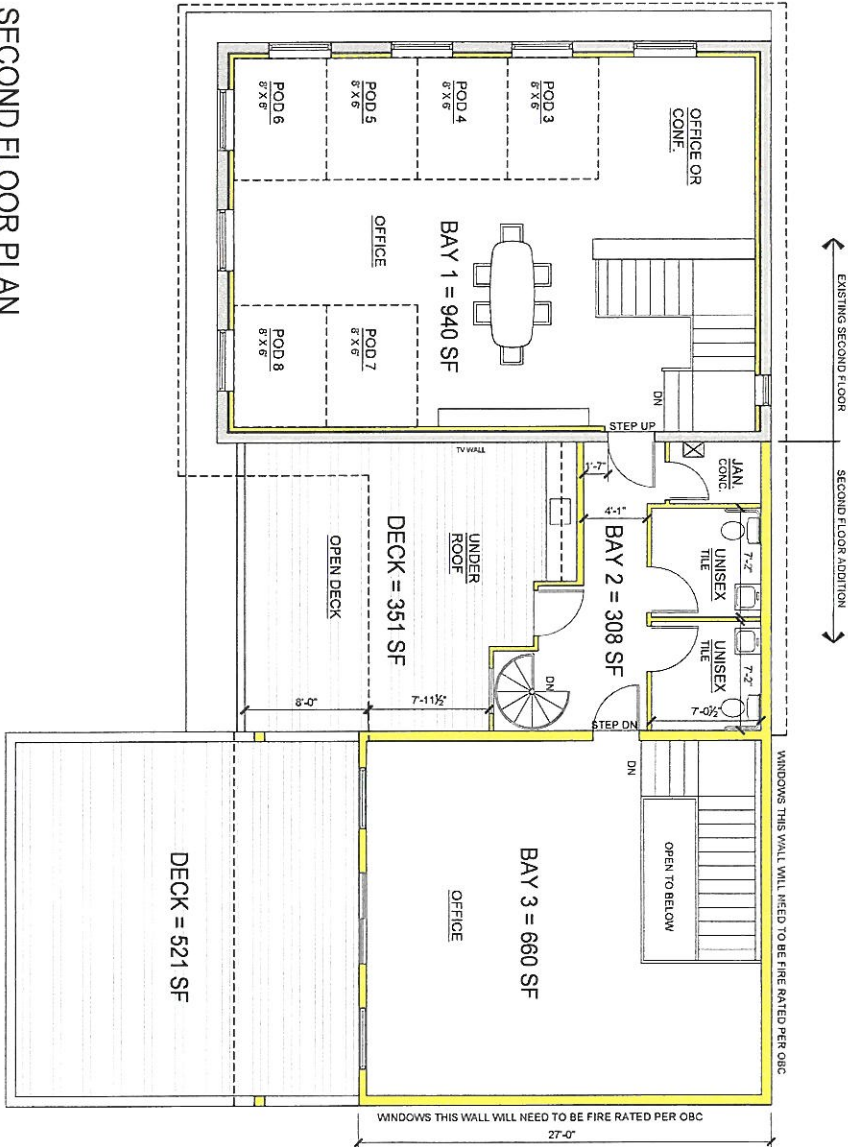
SCALE: 1/8" = 1'-0"

- FIRST FLOOR**
- BAY 1 - 940 SF
- BAY 2 - 712 SF
- BAY 3 - 1,221 SF
- SECOND FLOOR**
- BAY 1 TOTAL = 1,880 SF
- BAY 2 TOTAL = 1,020 SF
- BAY 3 TOTAL = 1,881 SF
- TOTAL BUILDING = 4,781 SF**



APRIL 23, 2024

9393 SHELLY LANE



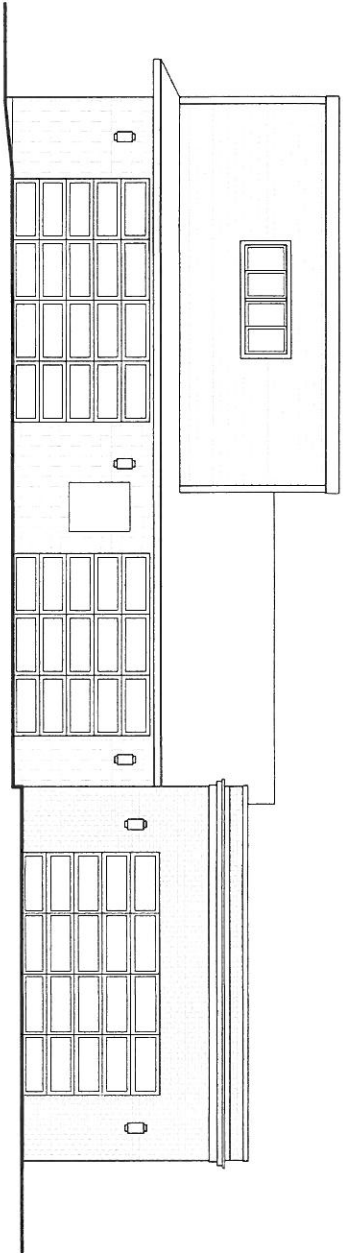
SECOND FLOOR PLAN

SCALE: 1/8" = 1'-0"

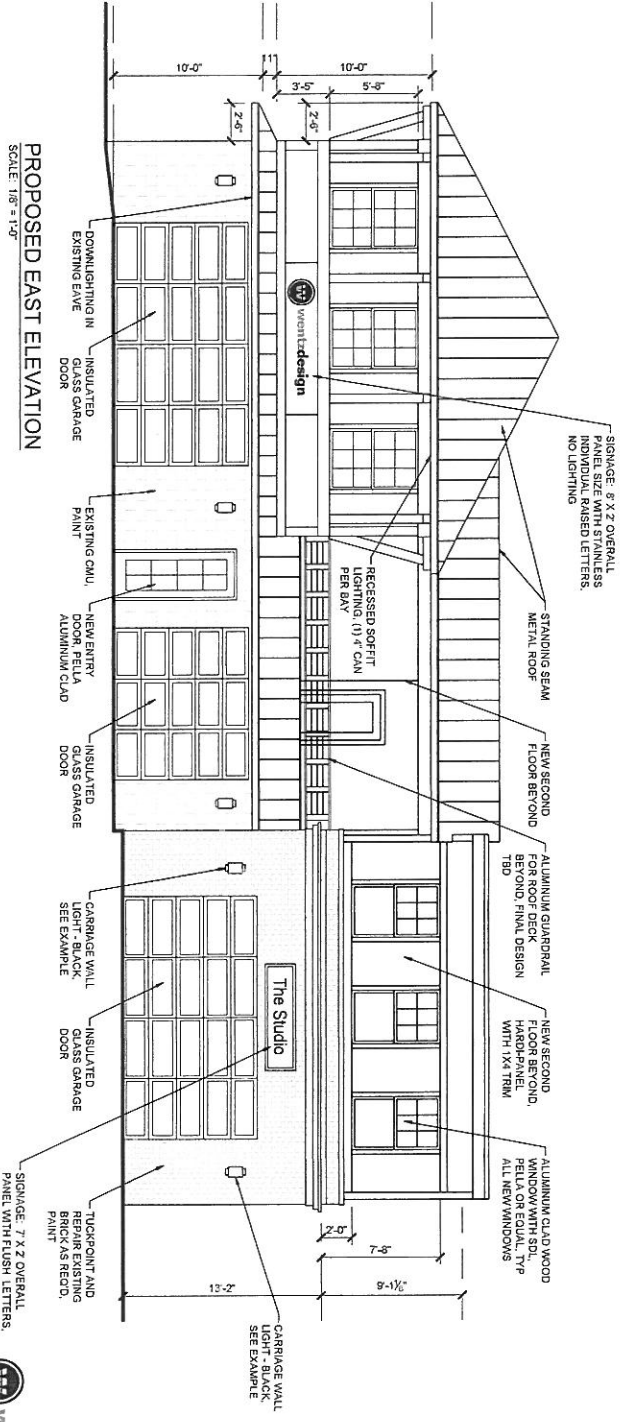
9393 SHELLY LANE



APRIL 23, 2024



EXISTING EAST ELEVATION
SCALE: 1/8" = 1'-0"



PROPOSED EAST ELEVATION
SCALE: 1/8" = 1'-0"

SIGNAGE: 8' X 2' OVERALL
PANEL SIZE WITH STAINLESS
MODULAR RAISED LETTERS,
NO LIGHTING

STANDING SEAM
METAL ROOF

RECESSED SOFFIT
LIGHTING, (1) 4" CAN
PER BAY

NEW SECOND
FLOOR BEYOND

ALUMINUM GUARDRAIL
FOR ROOF DECK
BEYOND, FINAL DESIGN
TBD

NEW SECOND
FLOOR BEYOND,
HARDPANEL
WITH 1X4 TRIM

ALUMINUM CLAD WOOD
WINDOW WITH SCL,
PELLA OR EQUAL, TYP
ALL NEW WINDOWS

CARRIAGE WALL
REPAIR EXISTING
BRICK AS REQD,
PAINT

SIGNAGE: 7' X 2' OVERALL
PANEL WITH FLUSH LETTERS,
BACKLIT, SEE EXAMPLE

CARRIAGE WALL
REPAIR EXISTING
BRICK AS REQD,
SEE EXAMPLE

THROUGHOUT AND
REPAIR EXISTING
BRICK AS REQD,
SEE EXAMPLE

INSULATED
GLASS GARAGE
DOOR

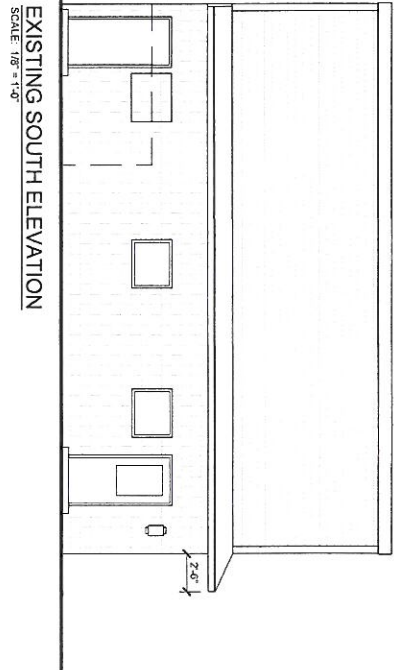
EXISTING CLAD
ALUMINUM CLAD
DOOR

EXISTING CLAD
ALUMINUM CLAD
DOOR

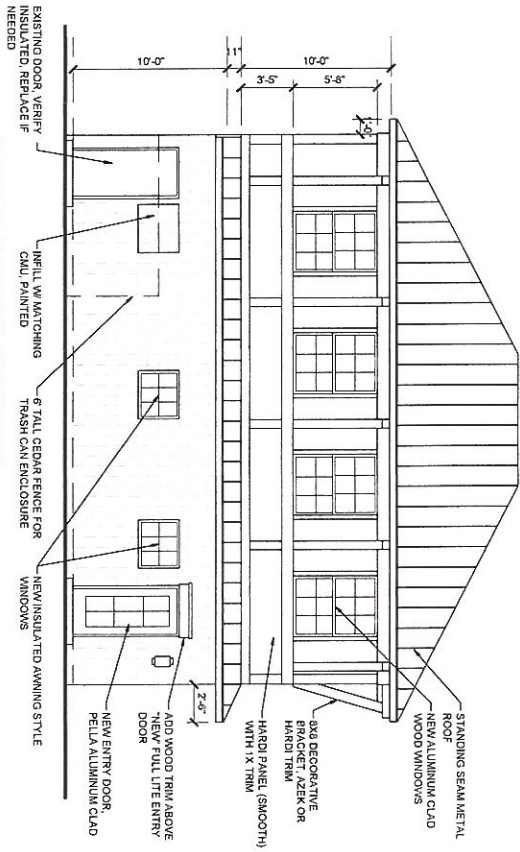


APRIL 23, 2024

9393 SHELLY LANE



EXISTING SOUTH ELEVATION
SCALE: 1/8" = 1'-0"

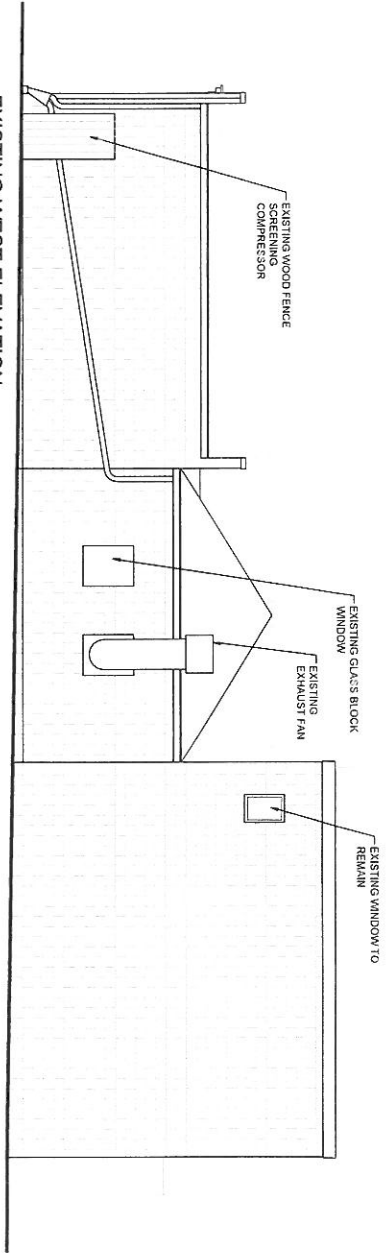


PROPOSED SOUTH ELEVATION
SCALE: 1/8" = 1'-0"

9393 SHELLY LANE

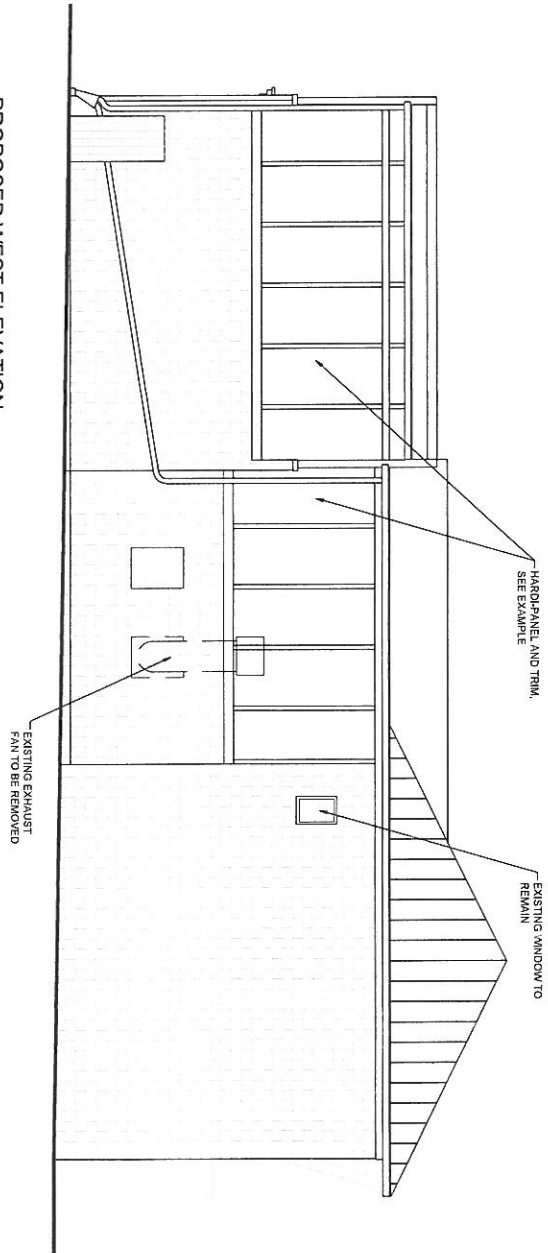
EXISTING WEST ELEVATION

SCALE: 1/8" = 1'-0"



PROPOSED WEST ELEVATION

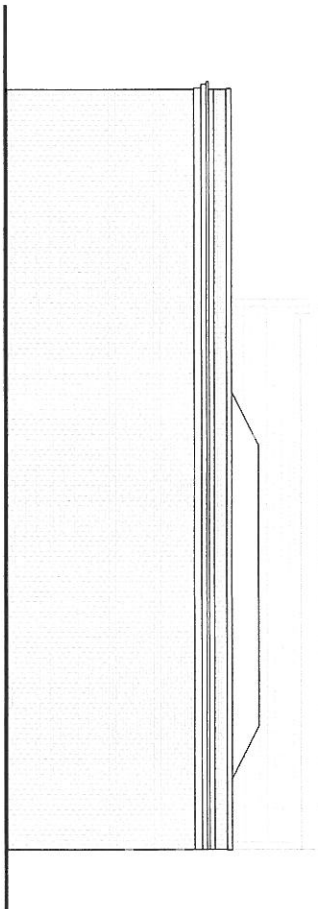
SCALE: 1/8" = 1'-0"



9393 SHELLY LANE

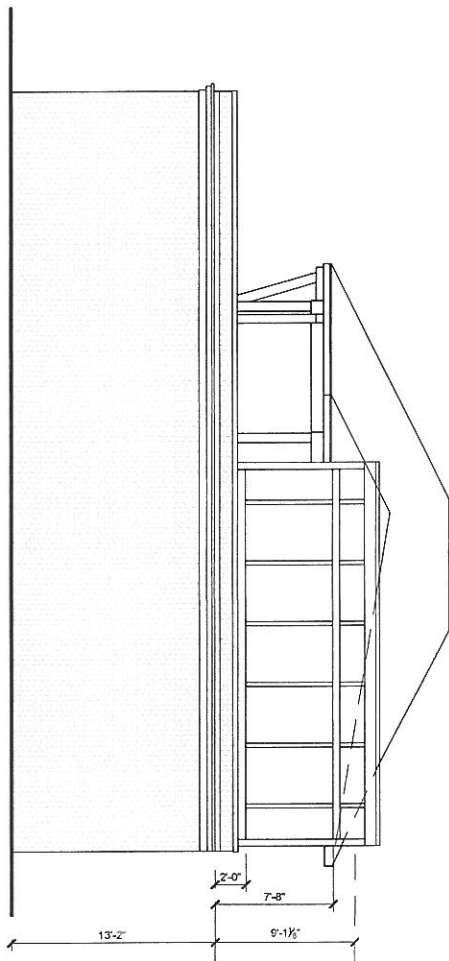
EXISTING NORTH ELEVATION

SCALE: 1/8" = 1'-0"



PROPOSED NORTH ELEVATION

SCALE: 1/8" = 1'-0"

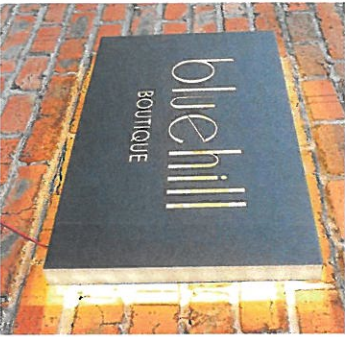


9393 SHELLY LANE



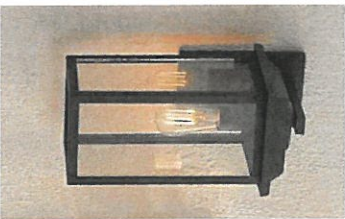
APRIL 23, 2024

SW SWISS COFFEE OC 45
REF: RENDERING FOR PLACEMENT



"The Studio" LIGHT INSPIRATION
7' X 2' OVERALL PANEL WITH FLUSH LETTERS,
BLACK UP

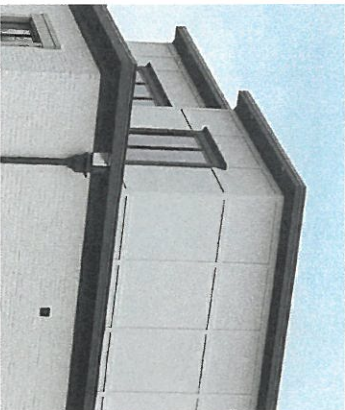
SW KENDALL CHARCOAL HC - 166
REF: RENDERING FOR PLACEMENT



LIGHT FIXTURE
CARTRIDGE WALL LIGHT
15" H X 7" WIDE BLACK

EXTERIOR MATERIALS			
ITEM	MANUFACTURER	TYPE	COLOR
ROOFING (VISIBLE)	TBD	24 GAUGE FLAT STANDING SEAM METAL, 16" SPACING	MEDIUM GRAY
ROOFING (NOT VISIBLE)	TBD	RUBBER MEMBRANE	GRAY
WINDOWS	MARINI	INFINITY - FIBERGLASS	CHARCOAL OR BLACK
FRONT DOOR	PELLA	ALUMINUM CLAD - WOOD GLASS - COP/SLY MODEL, 901	CHARCOAL OR BLACK
GARAGE DOORS	1/2 DOOR & WINDOW CO HARDI	GLASS - COP/SLY MODEL, 901 TRIM & BOARD	CHARCOAL OR BLACK
SIDING	HARDI	TRIM & BOARD	SW SWISS COFFEE OC 45 (OFF WHITE) - TO MATCH CMU
EXISTING BRICK	-	-	PAINTED - SW KENDALL CHARCOAL HC - 166 (MEDIUM/DARK GRAY)
EXISTING CMU	-	-	SW SWISS COFFEE OC 45 (OFF WHITE) - TO MATCH HARDI TRIM
GUARDRAIL	CUSTOM	STEEL	PAINTED BLACK

NOTE: WINDOW COLOR SHALL MATCH GARAGE DOOR COLOR



HARDI MATERIAL (TRIM & BOARD)
REF: TABLE ABOVE FOR COLOR (SWISS COFFEE)



STANDING SEAM METAL ROOF
MEDIUM GRAY APPROXIMATE

**CITY OF MONTGOMERY
BOARD OF ZONING APPEALS REGULAR MEETING**

CITY HALL · 10101 MONTGOMERY ROAD · MONTGOMERY, OH 45242

February 27, 2024

<u>PRESENT</u>		
<u>GUESTS & RESIDENTS</u>		<u>STAFF</u>
		Melissa Hays, City Planner
Mark Berliant 1036 Arborcreek Lane, 45242	Donnie Richardson 10724 Lanyard Drive, 45242	Karen Bouldin, Secretary
		<u>ALL BOARD MEMBERS PRESENT</u> Mary Jo Byrnes, Chairman Richard White, Vice-Chairman Jade Stewart Steve Uckotter
Jon Homer Director of Business Development Life Enriching Communities (LEC) Twin Lakes 6279 Tri-Ridge Blvd., Ste 320 Loveland, OH 45140	Eric T. Roth 10307 Crestwind Circle, 45242	<u>MEMBERS NOT PRESENT</u> Tom Molloy

The Board of Zoning Appeals convened at 7:00 p.m. and Ms. Hays announced the Election of Officers.

Election of Officers

Ms. Stewart nominated Ms. Byrnes for Chairman for a period of one (1) year, beginning February 1, 2024.

Mr. White seconded the motion.

No other nominations were brought to the floor.

Mr. White moved to close nominations. Mr. Uckotter seconded the motion.

The Board unanimously approved the motion to close the nominations.

The Board unanimously approved the motion for Ms. Byrnes to be Chairman.

Ms. Stewart nominated Mr. White for Vice-Chairman for a period of one (1) year, beginning February 1, 2024.

Mr. Uckotter seconded the motion.

There were no other nominations brought to the floor.

Ms. Stewart moved to close the nominations.

Mr. Uckotter seconded the motion.

The Board unanimously approved the motion to close the nominations.

The Board unanimously approved the motion for Mr. White to be Vice Chairman.

Board of Zoning Appeals Meeting

February 27, 2024

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

31

32 **Roll Call**

33

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

35

36 ***PRESENT: Mr. Uckotter, Mr. White, Ms. Stewart, Chairman Byrnes*** (4)

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

38

39 **Pledge of Allegiance**

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

41

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

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

52

53 She asked all guests to turn off their cell phones.

54

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

57

58 Chairman Byrnes welcomed Mr. Berliant, Mr. Richardson and Mr. Roth, who were attending as
59 potential Board members.

60

61 **Guests and Residents**

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

64

65 **New Business**

66 *A request for a variance from property owner of 10120 Montgomery Road, Twin Lakes, to*
67 *allow a temporary sign bearing a message relating to the construction of Trillium at Twin*
68 *Lakes, to have a total of 24 square feet, with 5 feet in height. A maximum of 4 square feet,*
69 *4 feet in height is permitted, per Schedule 151.3011 of the Montgomery Zoning Code.*

70

71 Mr. White stated that he was a resident of Twin Lakes but felt that he could be objective about
72 this application. He asked if the other Board members had any objections. There were none.

73

74 **Staff Report**

Board of Zoning Appeals Meeting

February 27, 2024

75 Ms. Hays reviewed the Staff Report dated February 27, 2024 “Application for Variance: Twin
76 Lakes”.

77
78 She showed drawings on the wide screen for all to see, to provide more understanding of the
79 Staff Report. She indicated that there had been no calls or emails received regarding this
80 application.

81
82 Ms. Hays asked if the Board had any questions.

83
84 Ms. Stewart asked for the square footage of the signs that are currently there. Ms. Hays stated
85 that they were 2 feet by 2 feet, and they were 2 feet off the ground (making them 4 feet high);
86 and they adhered to the Code right now. She noted that the applicant would eliminate these signs
87 and replace them the proposed 1 large sign.

88
89 Ms. Hays explained the maximum of 4 square feet, and 4 foot height guideline: You can have a
90 4 square foot sign, and you can have multiple 4 square foot signs that total up to 25 square feet,
91 for the combined signs.

92
93 Ms. Stewart asked about the proposed signage, how high above the ground would it be?

94 Ms. Hays stated that it would be 1 foot above the ground and the sign itself would be 4 feet high.

95 Ms. Hays confirmed, stating that it would be 4 feet x 6 feet. The situation is unique because it is
96 located in a residential multi-family zoning, and so they have to adhere to the same requirements
97 as a single family house.

98
99 Chairman Byrnes asked if the applicant wished to speak.

100
101 **Jon Homer, Director of Business Development, Life Enriching Communities (LEC),**
102 **Twin Lakes, 6279 Tri-Ridge Blvd., Ste 320, Loveland, OH 45140** stated that Ms. Hays
103 covered the issues well. He stated that their sales process is different than a normal realtor’s
104 process. This is a high-end development, starting at \$1.1 million to \$1.3 million for a luxury
105 condo. They feel that a larger sign speaks more what they are trying to sell.

106
107 When they first bought the property and were going to build a memory care center there, they
108 had a sign very similar to this, for that project; and then some rules had changed, and the project
109 changed direction.

110
111 Ms. Stewart asked where the sign would be located. Mr. Homer stated that they will need to be a
112 certain amount of feet from the setback; they will meet all of the requirements. He thought they
113 would put it more in the middle of the site, as opposed to where the smaller signs are now. He
114 showed members the location on the wide screen.

115
116 Mr. White asked when construction might start. Mr. Homer hopes to begin in the spring of
117 2024. Ms. Hays stated that they have their permits.

118
119 There were no more questions for Mr. Homer.

Board of Zoning Appeals Meeting

February 27, 2024

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

Adjournment

Mr. White moved to close the public hearing.

Mr. Uckotter seconded the motion.

The public hearing adjourned at 7:15p.m.

Chairman Byrnes opened the business session at 7:15p.m.

Business Session

A request for a variance from property owner of 10120 Montgomery Road, Twin Lakes, to allow a temporary sign bearing a message relating to the construction of Trillium at Twin Lakes, to have a total of 24 square feet, with 5 feet in height. A maximum of 4 square feet, 4 feet in height is permitted, per Schedule 151.3011 of the Montgomery Zoning Code.

Chairman Byrnes asked for any thoughts from the Board.

Mr. Uckotter felt this sign was entirely appropriate for the site.

Ms. Stewart stated that you cannot read the current signs when you are driving down Montgomery Road. Mr. Uckotter wasn't even aware there were signs there.

Mr. Uckotter moved to approve the request from Twin Lakes, for the property situated at 10120 Montgomery Road, Montgomery, Ohio 45242, to allow a temporary sign of 24 square feet, and 5 feet in height, where a maximum of 4 square feet and 4 feet in height is permitted, per Schedule 151.3011 of the Montgomery Zoning Code, as described in the City of Montgomery Staff Report dated February 27, 2024.

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

Mr. White seconded the motion.

The roll was called and showed the following vote:

- | | |
|---|------------|
| <i>AYE: Ms. Stewart, Mr. Uckotter, Mr. White, Chairman Byrnes</i> | <i>(4)</i> |
| <i>NAY:</i> | <i>(0)</i> |
| <i>ABSENT: Mr. Molloy</i> | <i>(1)</i> |
| <i>ABSTAINED:</i> | <i>(0)</i> |

This motion is approved.

Adjournment

Mr. Uckotter moved to close the business session.

Board of Zoning Appeals Meeting

February 27, 2024

165 Ms. Stewart seconded the motion.
166 The business session adjourned at 7:18p.m.

167
168 Chairman Byrnes opened the public hearing at 7:18p.m.

169
170 **Other Business**

171 There was no other business to report.

172
173 **Minutes**

174 Mr. Uckotter moved to approve the minutes of January 23, 2024, as written.

175 Mr. White seconded the motion.

176 The Board unanimously approved the minutes.

177
178 **Adjournment**

179 Mr. Uckotter moved to adjourn. Mr. White seconded the motion.

180 The meeting adjourned at 7:20 p.m.

181
182
183
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186

187 _____
Karen Bouldin, Clerk

Mary Jo Byrnes, Chairman

Date

188
189 /ksb
190
191
192