

## BOARD OF ZONING APPEALS

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

### Board of Zoning Appeals Agenda June 25, 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

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 2

7933 Cooper Road: Matt Stanley, applicant, on behalf of Michele Stanley Homes, LLC, property owner, requests a variance to allow a new driveway to have a front yard coverage of 61% where 40% is the maximum permitted per Schedule 151.1009(F)(1) of the Montgomery Zoning Code.

#### Agenda Item 3

9004 Old Creek Trail: Matt Tedford, applicant, on behalf of Renaissance Home Investments, property owner, requests a variance to allow a new single-family dwelling to have a front yard setback of 25' where 50' is required per Schedule 151.1005 of the Montgomery Zoning Code. A second variance is also being requested to allow for a rear yard setback of 32' where 52.5' is required per Section 151.1004(D)(4) of the Montgomery Zoning Code.

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



Application for Variance: Abigail and Lance Busdeker

June 25, 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



### BOARD OF ZONING APPEALS

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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.



## APPLICATION FORM

| Meeting (Circle): Board of Zoning Appeals Planning Commis<br>Commission   | sion Landmarks   |
|---|--|
| Project Address (Location): <u>8821 Wellee</u> Ko.  |  |
| Project Name (if applicable): DRIVEWAT SAFETY   |  |
| Auditors Parcel Number: 603 - 0024 - 0153 - 00  |  |
| Gross Acres: 472 Lots/Units Commercial  | Square Footage   |
| Additional Information:   |  |
| PROPERTY OWNER(S) AsieAil Am LANG BUSDELLIC Contac  |  |
| Address <u>8821 Wellee</u> Ro. Phone  | 312-919-0078   |
| City Mont Gomen State OH  | Zip <u>45249</u>   |
| E-mail address JANSENBUSDEKER GMAil. COM  |  |
| APPLICANT ABILAIT JANSEN BUSOCUER Contact   |  |
| Address <u>8821 Wellex</u> Ro. Phone  | 312-919-0078   |
| City Montooners State OH  |  |
| E-mail address  |  |
| I certify that I am the applicant and that the information submitted with this application is true a belief. I understand the City is not responsible for inaccuracies in information presented, and the application may cause the application to be rejected. I further certify that I am the owner or involved in this application, or the lessee or agent fully authorized by the owner to make this subbelow. | and accurate to the best of my knowledge and<br>at inaccuracies, false information or incomplete<br>purchaser (or option holder) of the property |
| Property Owner Signature ONLY   | _ FOR DEPARTMENT USE   |
| Drint Name  | Meeting Date:  |
| Print Name  Abygail C. Jansen Busdeher  Date May 9, 2024  | Total Fee: 300   |
| Date May 9, 2024  | Date Received:   |
| 1   | Received By:   |



# CONSENT OF OWNER(S) TO INSPECT PREMISES

| То: | 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 <u>\$821</u> Wellee <u>\$20</u>. 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 |         | Al Call |           |
|-----------------------------|---------|---------|-----------|
| Print Name LANCE BUSDENER   | Asiunil | JANSON  | Buspeller |
| Date                        |         |         |           |

Board of Zoning Appeals Members:

Mary Jo Byrnes

Tom Molloy

Jade Stewart

Steve Uckotter

Richard White



## Consideration for Approval of Dimensional Variances

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

1. Whether special conditions and circumstances exist which are peculiar to the land or structure and which are not applicable to other lands or structures in

|    | the same zoning district. Examples are narrowness, shallowness or steepness of the lot, or adjacency to non-conforming uses.   |
|----|--|
|    | DRIVEWAT MODIFICATION IN REAR/SIDE OF HOME to  |
|    | IMPROVE VEHICULAR SAFETT.  |
| 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.  |
|    | MA THE TO THE TOTAL PROPERTY OF THE PROPERTY O |
| 3. | Is the variance substantial? Is it the minimum necessary?  |
|    |  |
| 4. | Will the character of the neighborhood be substantially altered?  No. ONLY PARTIALLY VISIBLE FROM The Smeet.   |
|    | 100, 0001  |
| 5. | Would this variance adversely affect the delivery of government services?  |
|    |  |



| 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 CONTINUA  |
|     | THE "DO NOTHING" SCENARIO INVOLVES THE CONTINUAN OF A VEHICLE BACKIMG INTO AN INCREASINGLY BUSY STR (Weller Ro.)               |
| 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 SAFEM.  |
| 10. | Would granting the variance confer on the applicant any special privilege that is denied to other properties in this district? |
|     |  |

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.

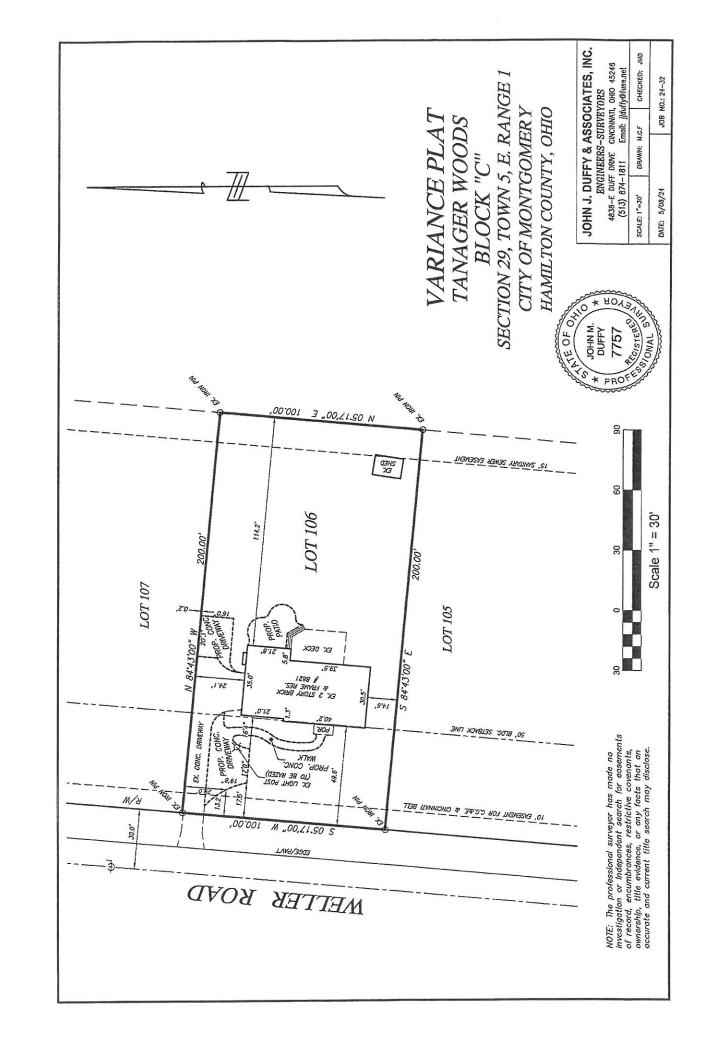
- The circle drive would be immediately over our water line. If access to the water line was needed, it would be necessary to destroy a portion of the driveway. This would result in tens of thousands of additional dollars in concrete to repair.
- The cost for the circle drive was considerably more expensive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

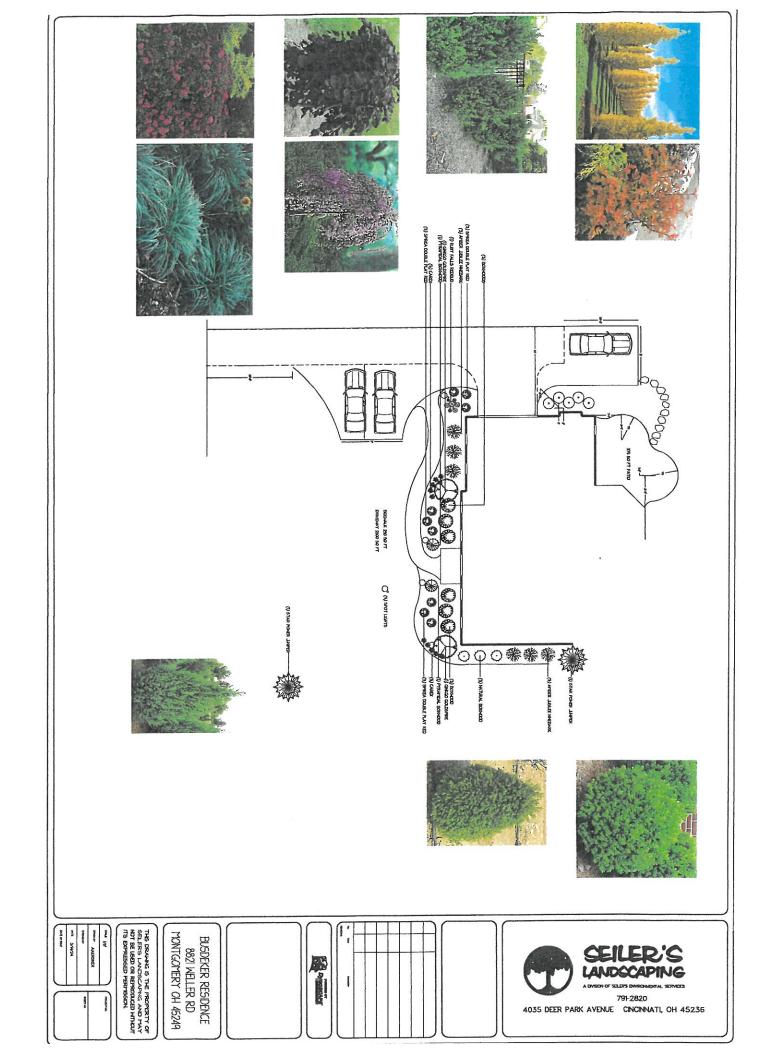
We have worked diligently with Seilers Landscaping and RCK Concrete to create a plan that addresses the safety concerns yet is visually appealing. The combination of extending the driveway and adding the pad will allow us and others to safely exit our driveway. Our hope is to stay in our home within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

Alic Your

With gratitude,

Lance and Abby Busdeker





Montgomery, OH 45249

Lance and Abby Busdeker,

We reviewed your plans to update your driveway and landscape. We approve and are fully on board with your property upgrade.

Please let the City of Montgomery know we are OK with it and they can call us if they have any questions. My cell number is (513)827-7128.

Dave and Mary Toerner

MARE TOURALTE

## 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

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: 7933 Cooper Road

June 25, 2024 Staff Report

Applicant:

Matt Stanley, Legendary Homes

P.O. Box 43186

Montgomery, Ohio 45140

Property Owner: Michele Stanley Homes, LLC

Vicinity Map:



### Nature of Request:

Matt Stanley, applicant, on behalf of Michele Stanley Homes, LLC, property owner, requests a variance to allow a new driveway to have a front yard coverage of 61% where 40% is the maximum permitted per Schedule 151.1009(F)(1) of the Montgomery Zoning Code.



### Zoning:

This property is zoned 'A' single family residential. The surrounding properties are also zoned 'A' single family residential. In addition, this property is within the city's Heritage Overlay District.

### Findings:

- 1. The request of 61% versus 40% front yard coverage, equates to 954 square feet where 578 square feet is the maximum permitted.
- 2. The applicant is in the processing of building a new two-story house at 7933 Cooper Road with a front entry garage.
- 3. The lot is approximately 10,233 square feet in size, which is significantly less than the required 20,000 square foot minimum lot size in the 'A' district.
- 4. The width of the property is 64' which is less than the 80' minimum required in the 'A' district.
- 5. The new house was granted side yard setback variances in June, 2023 to allow setbacks of 10.4' on both sides.
- 6. The new house meets the front yard setback requirement based upon Section 151.1005(B) which allows for a reduced front yard setback, as more than 40% of the homes located on this block do not meet the current setback requirement. The house has a 20' front yard setback.
- 7. This submittal for the new house was heard at the June 8, 2023 Landmarks Commission meeting. The Landmarks Commission was in support of the project.

#### 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:



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1. Are there special conditions and circumstances which are peculiar to the land or structure involved, which are not applicable generally to other lands or structures in the same zoning district?

The lot size and lot width are legal non-conforming making constructing a new home on the lot challenging. The lot is approximately 10,233 square feet, approximately half of our minimum required square footage of 20,000 and the width is 64' which is 16 feet less than our required 80' lot width. Cooper Road is also identified on the Hamilton County Thoroughfare Plan as a collector roadway within the County, and no onstreet parking is permitted.

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; however, the builder has stated that since this house has been on the market, maneuverability and parking on the driveway have been concerns expressed by potential buyers.

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

The variance is substantial, as the applicant is requesting an addition 21% of front yard coverage. Due to the reduced front yard depth and narrow width of the property, this is the minimum necessary to maneuver a vehicle in a semicircle.

4. Will the character of the neighborhood be substantially altered? Would adjoining properties suffer substantial detriment as a result of the variance?

Staff does not believe that the character of the neighborhood would be substantially altered by granting the variance. The subject lot and the lots to the east and west on the block are small and relate to the Heritage District in terms of lot size and width. A majority of the lots within this area are legal nonconforming with regards to lot width, size and side yard setbacks. In addition, there is a u-shaped driveway located at 7942 Cooper Road that also exceeds the front yard coverage requirement. However, the driveway was installed in 2005 and there is no record of a variance.



- 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 at the time of purchase.
- 7. Whether special conditions exist as a result of the actions of the owner?

  No special conditions exist as a result of the action of the owner.
- 8. Whether the owner's predicament can be feasibly obviated through some other method?

The subject lot has a narrow lot width, small overall square footage, no on-street parking, and a legal reduced front yard setback; therefore, the area to install a turnaround is small. However, the house does have an enclosed two car garage and approved driveway for an additional four cars.

While the applicant could have set the house further back on the lot, Staff is of the opinion this would have negatively impacted the street wall of the homes along Cooper Road. During the initial design process, the surveyor noted the average front yard setback of the neighboring four homes was 14.9'. The builder increased the setback to 20' in order to accommodate the stacking length of two vehicles.

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

The spirit and intent of Sections 151.1009(F)(1) is to ensure adequate water run-off and reduce visual clutter. The subject lot is narrow and has small square footage which creates a practical difficulty and Staff does not believe that granting the variance would negatively impact the neighborhood.



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

Staff is unaware of any variances granted for front yard coverage. However, as previously stated, the house at 7942 Cooper Road has a driveway that exceeds the front yard coverage maximum and was built in 2005.

#### Staff Comments and Recommendations

Staff believes that the narrow lot width, reduced overall lot size, and no onstreet parking for this property presents challenges to vehicular maneuverability on the lot. While the builder had the option to locate the house further back on the lot in order to provide a u-shaped driveway and adhere to the maximum front yard coverage requirements, the street wall would have been substantially altered. Staff does not believe that the neighborhood would be negatively impacted by granting the variance as homes along this stretch of Cooper Road have many legal non-conformities, and a reduced front yard setback presents challenges. Staff is of the opinion that the proposed driveway would not have a negative impact on overall drainage, and the builder does intend to utilize the existing curb cut along the eastern side.

Approving the variance to allow a front yard coverage of 61% where 40% is the maximum permitted per Schedule 151.1009(F)(1) of the Montgomery Zoning Code in accordance with the site plan dated June 20, 2024 could be justified by criteria # 1, 4, 5, 7, 8, 9 and 10.



## APPLICATION FORM

| Meeting (Circle): Board of Zoning Appeals Planning Comr<br>Commission  | mission Landmarks   |
|--|---|
| Project Address (Location):  |   |
| Project Name (if applicable):  |   |
| Auditors Parcel Number: <sup>603-0004-0049-00</sup>  |   |
| Gross Acres: Lots/Units Commerc  |   |
| Additional Information:  |   |
| PROPERTY OWNER(S)Michele Stanley Homes LLC Conf  | tactMatt Stanley  |
| Address <u>PO BOX 43186</u> Pho  | one:  |
| City Cincinnati State OH   | Zip45243  |
| Matt@huildlagandan.com   |   |
| APPLICANT Contact _  |   |
| AddressPho   | one:  |
| City State   | Zip   |
| E-mail address   |   |
| I certify that I am the applicant and that the information submitted with this application is t belief. I understand the City is not responsible for inaccuracies in information presented, an application may cause the application to be rejected. I further certify that I am the own involved in this application, or the lessee or agent fully authorized by the owner to make thi below. | id that inaccuracies, false information or incomplete<br>er or purchaser (or option holder) of the property |
| Property Owner Signature   | FOR DEPARTMENT USE  |
| ONLY   | FOR DEPARTMENT OSE  |
| Print Name  Matt Stanley   | Meeting Date: 6 25 24   |
| iviati Staniey   | Total Fee: 300  |
| Date   | Date Received: Electric   |
|  | 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.  The lot is small and the width of lot is also small, which makes the front yard very small. We tried thinking about this before and moved the house back more than the average to get parking spots in but also didn't want to alter the street wall much either. Now with feedback from several home buyers there is still not enough off street parking and backing out is a concern. There is NO street parking or public parking around the area for them to use. |
|----|---|
| 2. | Will the property yield a reasonable rate of return if the variance is not granted?   |
|    | We now believe based on feedback that it will not. We have now had 3 home buyers that love the house and the area that say they would buy the house if it had more off street parking for guests. We tried to address early with pushing house back a to get more spots but still not enough.   |
| 3. | Is the variance substantial? Is it the minimum necessary?   |
|    | We beleive it is. This will allow for additional parking in a VERY classy way. Will also be safe for homeowners that don't want to back onto the street for saftey reasons. They have a place to pull around and not back out.  |
| 4. | Will the character of the neighborhood be substantially altered?  |
|    | No. There is a house down the street that has a similar u shaped driveway. We want this to be a very classy and useful upgrade for the homeowner. We believe it will actually enhance the look of the home and be VERY classy. We will heavily landscape around it as well.   |
| 5. | Would this variance adversely affect the delivery of government services?   |
|    | NO,   |
|    |   |

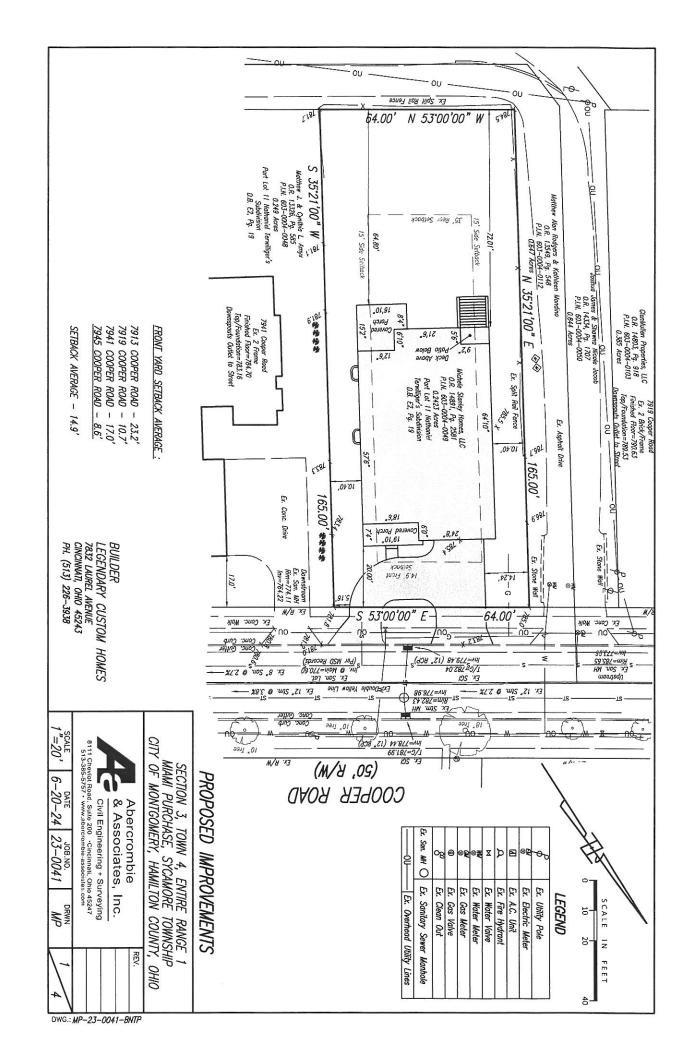


| 6. | Did the owner purchase the property with the knowledge of the zoning restraint?  |
|----|--|
|    | Yes  |
|    |  |
| 7. | Whether special conditions exist as a result of the actions of the owner?  |
|    | No   |
|    |  |
| 8. | Whether the owner's predicament can be feasibly obviated through some other method?  |
|    | No, we have tried to talk to neighbors that own the private drives to the right and nothing has come from this.  |
|    |  |
|    |  |
| 9. | Would the spirit and intent behind the zoning requirement be observed and substantial justice done by granting the variance?   |
|    | Yes. We will have more plant life as a result of our heavily landscaping around the driveway. We will be using a beautiful permeable pavers for drainage and there is also a catch basin between both driveways.   |
|    | The yard is already sloped to the front of the lot.  |
|    |  |
| 10 | . Would granting the variance confer on the applicant any special privilege that is denied to other properties in this district?   |
|    | No. We have a narrow lot and no off street parking near for overflow parking for guest or having people over.  Also a concern is backing up into traffic. This is on the hamilton county traffic map as a collection road and is   |
|    | heavily traveled so backing up is a little tougher. There is a home a few doors down that seems to be over the allowable % as well for the front yard and they also have a wider and bigger front yard that us. Their concrete in their front yard is about 2700 square feet and our request is for 578 square feet. We believe that house still looks great and is classy and brings alot of character to the street still! |



## CONSENT OF OWNER(S) TO INSPECT PREMISES

City of Montgomery Board of Zoning Appeals Members and Staff To: City Hall 10101 Montgomery Road Montgomery, Ohio 45242 Re: Review Subject Site Dear Members and Staff: As owner(s) of the property located at 7933 Cooper Road 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 \_\_\_\_\_ Matthew Stanley Print Name 6/05/24 Date Board of Zoning Appeals Members: Mary Jo Byrnes Tom Molloy Jade Stewart Steve Uckotter Richard White



From:

Cindy Amyx <cindyamyx5@gmail.com>

Sent:

Tuesday, June 18, 2024 12:03 PM

To:

Melissa Hays

Cc:

Matt Amyx; Matt Stanley

Subject:

7933 Cooper Road — Legendary Builders

You don't often get email from cindyamyx5@gmail.com. Learn why this is important

Hi Melissa —

We will be unable to attend the meeting next week to discuss the variance changes requested by the builder, however, we wanted to send a note in advance with our support in favor of the proposal.

If you have any questions — please let us know.

Cindy Amyx 7941 Cooper Road 513.713.4210

From:

Alan Sabato <asabato@surevestfinancial.com>

Sent:

Thursday, June 20, 2024 5:56 PM

To:

Melissa Hays

Subject:

Zoning Exception on Cooper Road

Hi Melissa,

I live at 7976 Cooper Road. I am diametrically opposed to allowing the new construction at 7933 Cooper Road to put in what amounts to be a paved front yard. I won't reiterate what Tom Hattersley has already eloquently stated. I agree with every one of his points. However, let me add some more thoughts for consideration by the City of Montgomery. The house is in the Heritage District. Just as Montgomery does not allow things like siding on the houses, this too should be thought of as diminishing our street and values. Yes, I know that the house in question is likely to sell for a very high price. However, that should not be a factor if the pavement and cars in front detract from the ambience of our street. Not only do we take pride in that, but I know Montgomery does also. There's one last item that no one wants to mention. The eventual high sale price of 7933 will undoubtedly encourage new builders and home owners to purchase homes on the street and do "teardowns" replaced by new more expensive homes. Does Montgomery want to set a precedent that would likely keep them from preventing additional eyesores or bad judgment just because a potential buyer demands so. My wife, Jan, and I feel strongly on this subject. We have lived on Cooper Road for almost 25 years. We are not even close to being the longest owners in longevity. I believe you will find that the current owners on Cooper are unanimous that the proposed exception should be denied. Shouldn't our feelings and opinions carry more weight than someone who has not lived one day on this street? Let's keep the charming Cooper Road we all know and love. Please feel free to contact me at alsabato@surevestfinancial.com or 513-319-6316. Thank you for your time and attention.

Best Regards,

Al Sabato Sent from my iPhone

From:

Thomas J Hattersley <thomasjhattersley@gmail.com>

Sent:

Monday, June 17, 2024 1:14 PM

To:

Melissa Hays; sam@theruggallery.com; Alan Sabato; Jan Sabato; dozerdt89@gmail.com;

Stephen Schatz; frishkorns@aol.com; Sharon Hattersley

Subject:

Re: 7933 Cooper

You don't often get email from thomasjhattersley@gmail.com. Learn why this is important

Melissa, I continue to oppose the current application. So, I ask that the application be denied.

What I most oppose is parking spaces in front of the house. Circular driveways entice drivers to conveniently leave cars at the front door, creating the used car lot look. We have examples up and down the street, including Indian Hill. So, should the applicant make an actual--not theoretical--case for an exception, I would still oppose a circular driveway.

That notwithstanding, my objective is to reconcile not to win.

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

LOT WEST OF DRIVEWAY OPTION--Moreover, the lot on the West side of the driveway is over 14 feet. And, that lot, likewise, abuts the other driveway. Should a case be made based on actual experience by someone who actually lives in the house, there is over 14 feet for a narrow-width--9 feet wide or less--pad extending Westward from the zone-appropriate driveway. Importantly, I would prefer that it be only ten feet or less long--East to West--so that it does not invite long-term parking; it should be just enough to facilitate turning around.

Peace and Good,

### Tom

Thomas J. Hattersley 7967 Cooper Road Montgomery, Ohio 45242-7330 (513) 259-5402

On Mon, Jun 17, 2024 at 11:36 AM Thomas J Hattersley < <a href="mailto:thomasjhattersley@gmail.com">thomas J Hattersley < a href="mailto:thomasjhattersley@gmail.com">thomas J Hattersley@gmail.com</a> who hat the meeting in opposition.

· The aesthetics are obviously objectionable.

- I back out--and in--all the time. (I am at my desk with a window to the front and I just saw my landscaper back in his truck with a trailer attached.)
- If the application is denied, the buyer has the easy option of not buying. Whereas, if the exception
  is granted, Cooper Road neighbors do not have an easy option. We've lived here for 40
  years. The Presnells have been here 42 years. The Sabatos have been here for about 25
  years. The Thomases go all the way back to Dan Thomas's grandparents.
- The buyer's argument is imaginary. No actual problem while backing in or out has occurred.
- Modern chip-laden cars with sensors, radar, and cameras are quite easy to drive in reserve.
- Yes, the old driveway crossed the line. But the old driveway is gone. They want to cross anew.
- Cooper may be designated as a collector, but nothing in a collector road is intended to foster speeding.

Peace and Good,

#### Tom

Thomas J. Hattersley 7967 Cooper Road Montgomery, Ohio 45242-7330 (513) 259-5402

On Mon, Jun 17, 2024 at 11:06 AM Melissa Hays <a href="mailto:mhays@montgomeryohio.gov">mhays@montgomeryohio.gov</a>> wrote:

Hi Tom,

Hope all is well. Thank you for reaching out regarding the upcoming variance request for 7933 Cooper Road, and I'm hoping I can address all of your questions and concerns.

- The applicant is requesting a coverage of 61% where 40% is the maximum permitted for a u-shaped driveway.
- The southern curb cut along Cooper Road is existing and the applicant is requesting to reuse the same apron. The Public Works Department has no issue with the reuse in the right of way.
- The property is legal non-conforming in lot size, as it is 10,233 square feet and 20,000 square feet is the minimum required for the district. In addition, the lot is 64' in width, where 80' is the minimum required in the district.
- While the house has a side yard setback of approximately 10', the required setback for a driveway is 5' and that would only allow for a 5' wide parking area.
- This request is being submitted at the request of the buyer.
- While the builder had the option to shift the house back even further on the lot, he selected this placement
  to stay more in line with the existing street wall, while maximizing the amount of parking area in the
  driveway. However, the potential buyer is seeking a way to turn around on the property and not have to
  back out onto Cooper Road.
- Cooper Road is assigned a functional road classification of Collector Road in accordance with the Hamilton County Thoroughfare Plan and is part of the overall county street network.

I hope you find this information helpful, and I would be happy to discuss in greater detail over the phone at your convenience.

Sincerely,

Melissa



Melissa Hays, AICP City Planner

City of Montgomery 10101 Montgomery Rd. Montgomery, OH 45242



**513-792-8347** 



M mhays@montgomeryohio.gov



www.montgomeryohio.gov



2019 - 2023







From: Thomas J Hattersley < thomas jhattersley@gmail.com >

Sent: Saturday, June 15, 2024 3:13 PM

To: sam@theruggallery.com; Alan Sabato <a href="mailto:sam@theruggallery.com">asabato@surevestfinancial.com</a>; dozerdt89@gmail.com

Cc: Sharon Hattersley < sabatohattersley@gmail.com >; Jan Sabato < jans@surevestfinancial.com >; Melissa Hays

<mhays@montgomeryohio.gov>

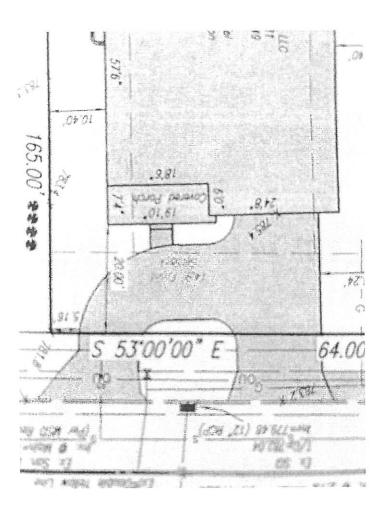
Subject: 7933 Cooper

You don't often get email from thomasjhattersley@gmail.com. Learn why this is important

Dan, Sam & Al,

[Melissa & Tracy, While I prepared this email for my neighbors, because I trust and value yours and Tracy's inputs and help so much, I am including you. You are welcome to share it as your judgment dictates.]

Zoning for 7933's lot allows a maximum of 40% concrete driveway for its front yard. They propose an exception for a circular driveway. See the photo below. I estimate their proposed zoning exception would take the concrete to 75%. Their driveway ends up being even wider than their house. And, it crosses the property line when it gets into the right-of-way.



A zoning meeting is to be held on Tuesday, June 25th, at 7:00 PM, in Council Chambers. Melissa Hays represents the City, <u>mhays@montgomeryohio.gov</u>, 513 792-8347.

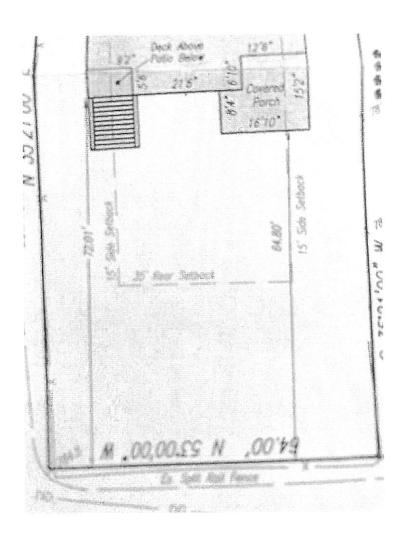
I have a request. My first choice is for you to attend the meeting.

My <u>second choice</u> is that you author an email in opposition and send it to me and Melissa. I will list potential arguments below hoping you agree with them.

Third choice is for you to call Melissa and voice your opposition.

Arguments in opposition:

- 1. SIX CARS--The garage holds two cars and the zoned driveway would hold four for a <u>total of six</u> <u>cars</u>. How often does one have to accomodate more than six cars?
- 2. PARKING LOT--The front of the house will become a parking lot. The convenience of <u>parking at the front door will be irresistible</u>. We've seen that with other circular driveways on the street, e.g., 7941 Cooper.
- 3. INNER CITY AESTHETIC--The aesthetic will be that of an inner city residence plopped down on a tree-lined street. Moreover, the driveway at its widest will be <u>wider than even the house itself and it crosses</u> the property line mark in the right-of-way!
- 4. USED CAR LOT--At any given time, <u>6 or more cars</u> could be jammed higgledy-piggledy in front of the house, looking like a <u>used car lot</u>.
- 5. SIDE LOT--One neighbor has already implemented a better solution: parking on the side of the house. An SUV, for example, is about 6 foot, 8 inches wide and a parking space is typically 9 foot wide. Each of 7933's side lots are about 10 foot, 5 inches wide.
- 6. REVERSIBILITY--The applicant does not intend to live there and has not experienced any actual hardship to support his request. Any neighbor would be more ready to make an exception if an actual resident had first-hand experience of difficulty with the zoning requirement. Once the driveway is in, it's irreversible for practical purposes. <u>Later, a neighbor can always request an exception if actual harm is proven.</u>
- 7. BREAKING POINT--With more zoning exceptions already granted and, perhaps, even more requests in the works, one has to ask, <u>does this house even belong</u> on a suburban, residential street.
- 8. POOR PLANNING--As the dotted line on the diagram labelled "Rear Setback" indicates, the house could have been moved back up to about another 30 feet. See the photo below. Had that been done, this whole issue would have been avoided. A firm with the reputation of Abercrombie would have surely pointed out the pitfalls of the placement of this house within this lot. Abercrombie is not known for Poor Planning. It is employee-owned, including three Abercrombies, and has served the community since 1976.



PARKING ON THE STREET--Finally, someone may counter-argue that cars will end up parking on the street. The garage fits two cars and the zoned driveway would fit four more, so the need to park on the street would be rare. However, while I would not present this as a primary argument, in response to such a counter-argument, I would welcome more parking on the street to slow the traffic down. This is a residential, tree-lined street, not cut-through thoroughfare. I greatly prefer parked cars over speeding cars.

Please, let me know your thoughts and plans in this regard.

Peace and Good,

### Tom

Thomas J. Hattersley

7967 Cooper Road

Montgomery, Ohio

45242-7330

(513) 259-5402



#### CITY OF MONTGOMERY BOARD OF ZONING APPEALS

Application for Variance: 9004 Old Creek Trail
June 25, 2024
Staff Report

Applicant:

Renaissance Home Investments

5548 Stewart Road Cincinnati, Ohio 45227

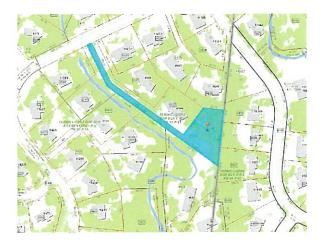
Property Owner: AVM Investments

9228 Kenwood Road Cincinnati, Ohio 45242

\*Closing date is set for June 24, 2024 to transfer to

Renaissance Home Investments

#### Vicinity Map:



#### Nature of Request:

The applicant submitted a request for a variance to allow a front yard setback of 25' for a new single-family dwelling, where 50' is required for panhandle lots in accordance with Section 151.1004(D)(4) of the Montgomery Zoning Code. A second variance is also be requested to allow for a rear yard setback of 32' where 52.5' is required per Section 151.1004(D)(4) of the Montgomery Zoning Code.



#### Zoning:

This property is zoned 'A' single family residential. The adjoining properties are also zoned 'A' single family residential and used for single family residences. The subject lot is a panhandle lot with public access from Terwilligers Run Drive.

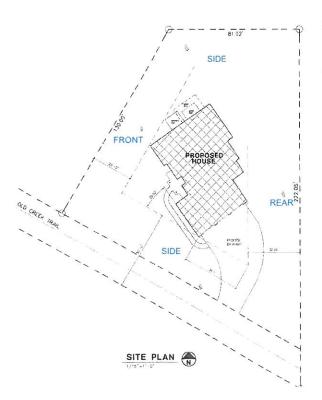
#### Findings:

- 1. The lot (Lot 55) was platted with the Terwilligers Run Subdivision (Block C) in 1985. A copy of the subdivision plat is included in your packet.
- 2. The lot is approximately 22,000 square feet in size, not including the area in the panhandle. The area in the panhandle is not counted in the area of the lot per Section 151.1004(d)(3). The lot is approximately 7,000 square foot smaller than required to establish a panhandle lot per Section 151.1004(d)(2).
- 3. The panhandle for the subject lot is 20' in width which meets the 20' minimum lot frontage required for panhandle lots in Section 151.1004(d)(1).
- 4. A total of 5 properties are panhandle lots with driveway access along Old Creek Trail, which is a private drive. Of the 5, 3 have panhandles onto Terwilligers Run Drive and 2 have panhandles onto E. Kemper Road.
- 5. A portion of the property is located within the floodplain.





- 6. A variance was approved on May 24, 2022 by a different applicant with the same setback request.
- 7. While front and rear yard setback variances are being requested, the applicant is proposing to face the house towards the private drive. The site plan below describes the defined yard areas.



PROPOSED HOUSE

for: LOT 55

OLD CREEK TRAIL
CINCINNATI, OHIO 45249

#### 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 it is 22,000 square feet where 30,000 square feet is the minimum required for a panhandle lot. The two properties to the west at 8996 and 8992 Old Creek Trail are also



legal non-conforming in lot size, as both lots are approximately 20,000 square feet.

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

Staff is of the opinion that the property may not yield a reasonable rate of return if the variance is not granted, as the applicant is proposing to place the house in line with neighboring properties, which are all oriented towards Old Creek Trail and not Terwilligers Run Drive.

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

The variance from the required side yard setback variance is significant because the applicant is requesting a 50% reduction in the required front yard setback and a 39% reduction in the required rear yard setback. Staff believes this is the minimum necessary to position a new house along Old Creek Trail in order to blend in with the existing homes on the private drive, work with the topography, and remain out of the designated floodplain.

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

Staff does not believe that the neighborhood would be substantially altered by granting the variances, as the proposed house is in line with the houses to the west. The houses to the west at 8996 and 8992 Old Creek Trail are similar in placement and are both legal non-conforming in the following setbacks:

8996 Old Creek Trail: Front 25' where 50' is required Rear 27.7' where 52.5' is required

8992 Old Creek Trail: Front 16' where 50' is required Rear 46' where 52.5' is required

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

Government services would not be affected by granting the variances.

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



## BOARD OF ZONING APPEALS

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

The applicant has stated that they were unaware 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 owner.
- 8. Whether the owner's predicament can be feasibly obviated through some other method?
  - Staff is of the opinion that the owner's predicament cannot be feasibly obviated through some other method. The applicant is proposing to situate the home in line with the neighboring homes to the west, while minimizing the amount of intrusion into the hillside on the eastern portion of the property and build outside of the floodplain.
- 9. Would the spirit and intent behind the zoning requirement be observed and substantial justice done by granting the variance?
  - Staff believes the intent of the panhandle regulations adopted in 2002 were to reduce the impact of new houses being constructed on newly created panhandle lots in existing neighborhoods and to ensure adequate spacing between homes. With the subdivision being platted prior to the change in the panhandle regulations, a majority of the panhandle lots in this subdivision do not meet today's standards. While the lot has remained vacant for a significant amount of time, the applicant is proposing a house with a similar setbacks of those to the west.
- 10. Would granting the variance confer on the applicant any special privilege that is denied to other properties in this district?

The following list is of previous cases regarding panhandle lot setbacks:

A dimensional variance for a rear-yard setback on a panhandle lot was approved for the property located at 9930 Zig Zag Road on August 21, 2002. The Board granted a 17' variance from the 52.5' required rear yard setback for a new home to be constructed on the lot.

A dimensional variance for the extension of a non-conforming building and rear-yard and a side-yard setback variances were approved for the



panhandle located at 8965 Canyon Ridge Lane on September 28, 2010. The Board granted a 26.5' variance from the 52.5' required rear yard setback and a 6.5' variance from the 22.5' required side yard setback for the construction of a room addition on the north side of the house.

A dimensional variance for the extension of a non-conforming building for the construction of a garage addition on the north-west side of the house at 11243 Acrewood Drive. The Board granted a variance in 2012 to allow a side yard setback of 15' for the addition.

Dimensional variances for a new house at 7950 Huntersknoll Lane for two side yard setbacks for a new single family dwelling of 17' for a length of 53' along the west and 63' along the east. The Board denied this request in 2018.

Granting the variance would not grant any special exception in regard to use.

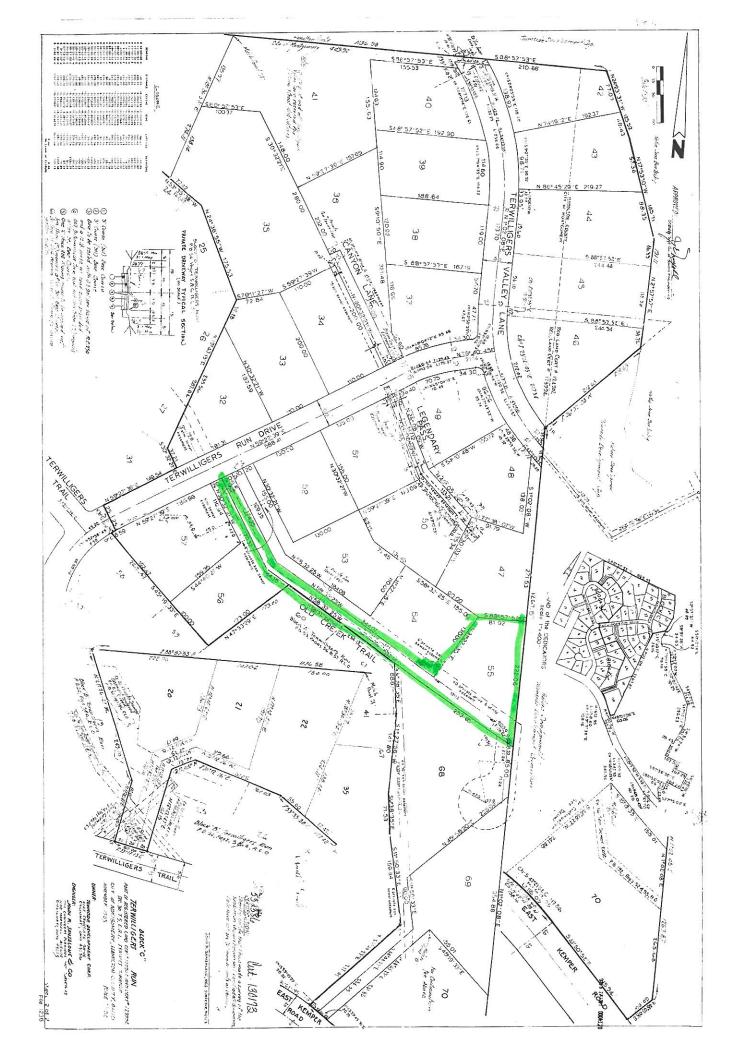
#### Staff Comments and Recommendations

While the amount of the variance is significant due to the fact that the subject lot is a panhandle lot with a larger required rear yard setback than other lots in the District, Staff does not believe that it will have a negative impact on the neighborhood due to the subdivision being platted prior to the change in the Zoning Code for panhandle lots. The proposed location of dwelling on the lot would be similar to the panhandle lots located to the west.

The proposed placement of the house facing Old Creek Trail continues the street wall already created by the layouts of 8996 and 8992 Old Creek Trail. Staff is of the opinion that the applicant has proposed the most suitable location based on the lot square footage constraint, topography, and location of the floodplain.

Approving a front yard setback of 25' for a new single-family dwelling, where 50' is required for panhandle lots in accordance with Section 151.1004(D)(4) of the Montgomery Zoning Code, could be justified by criteria #1-10.

Approving a variance to allow for a rear yard setback of 32' where 52.5' is required per Section 151.1004(D)(4) of the Montgomery Zoning Code, could be justified by criteria #1-10.



Matt Tedford Renaissance Home Inv. 5548 Stewart Rd Cincinnati, OH 45227

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

Letter of Intent for Dimensional Variance for: Lot #55 Old Creek Trail Montgomery, OH 45242 PARCCEL ID# 603-0025-0128

June 6, 2024

Dear Board of Zoning Appeals,

I am writing this letter requesting a front yard setback variance of 25' where 50' is required, and a rear yard setback of 32' where 52.5' is required. The proposed reduction of these setbacks would allow the construction of a new home on the lot at the above address, while maintaining the requirements and standards of the community of Terwilligers Run.

Due to the shape and terrain of this lot, combined with the required front and rear setbacks, this would make it extremely difficult to build a home that would include the qualities and meet the minimum square recommendations set forth by the Terwilligers Run HOA community.

Granting the variances will not be a detriment to the common good and community and would have no effect on adjoining properties. The proposed placement of the new home closely aligns with the existing homes that share the private drive of Old Creek Trail. The requested variances would allow the best use of the existing terrain, while maintaining the privacy, the consistency and spirit of the neighborhood.

This is the exact same request for variances that was submitted and approved by the City of Montgomery on May 24, 2022, but was vacated as the previous owner of the property and the builder had a dispute and parted ways.

Thank you for your consideration.

Sincerely,

Matt Tedford

Property owner

#### 9004 Old Creek Trail Variance

June 6, 2024

#### Request:

Applicants are submitting a variance request to allow setbacks that are similar to the neighbors to the west and in line with other flag-shaped lots in the neighborhood. Specifically, we are requesting a front yard setback of 25' for a new single-family dwelling, where 50' is required for panhandle lots in accordance with Section151.1004(D)(4) of the Montgomery Zoning Code. A second variance is also requested to allow for a rear yard setback of 32' where 52.5' is required per Section 151.1004(D)(4) of the Montgomery Zoning Code.

#### Zoning:

This property is zoned 'A' single family residential. All adjoining properties are also zoned 'A' single family residential and are currently being used as single-family residences. The lot is a panhandle lot with public access from Terwilligers Run Drive.

The lot is approximately 22,000 square feet in size, not including the area in the panhandle. The area in the panhandle is not counted in the lot square footage. The panhandle for the subject property is 20' in width which meets the 20' minimum lot frontage required in Section 151.1004(D)(1) of the Montgomery Zoning Code. A total of 5 nearby properties have panhandle lots with driveway access along Old Creek Trail, which is a private drive. Of the 5, 3 have panhandles onto Terwilligers Run Drive and 2 have panhandles onto E Kemper Rd.

While front and rear setback variances are being requested, the applicant is proposing to face the house towards the private drive. The houses at 8996 and 8992 Old Creek Trail are similar in placement and are both legal non-conforming lots. The attached site plan describes the yard areas.



#### APPLICATION FORM

| Meeting (Circle): Board of Zoning Appeals Planning Commission   |                        |  |
|---|------------------------|--|
| Project Address (Location): LoT #55 OLD   | CREEK TRAIL            |  |
| Project Name (if applicable):   |                        |  |
| Auditors Parcel Number: 603-0025-0128   | <u> </u>               |  |
| Gross Acres: Lots/Units Commercial  |                        |  |
| Additional Information: TERWILLIGER'S RUN   | SUBDIVISION            |  |
| PROPERTY OWNER(S) RENAISSANCE HOME In Contact   | VESTMENTS 513.827.8223 |  |
| Address 420 5548 STEWART RD Phone   | 513.827.8223           |  |
| City CINCINNATI State OH 2  | Zip 45227              |  |
| E-mail address Matttedford & yahoo. com   | и                      |  |
| APPLICANT MATT TEDFORD Contact S  | 513.827.8223           |  |
| Address 4205 BEECH ST Phone   |                        |  |
| City UNCINNATI State OH   |                        |  |
| E-mail address Mattedford @ yahoo. con  |                        |  |
| 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 ONLY   | _ FOR DEPARTMENT USE   |  |
| Print Name  | Meeting Date:          |  |
| MATT TEDFORD  Date 6/2/2024   | Total Fee:             |  |
| Date 6/2/2024   | 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. |
|----|--|
|    | Yes - the lot is not a Uniform shape and has a very significant slope  |
|    | - a very significant slope   |
| 2. | Will the property yield a reasonable rate of return if the variance is not granted?  |
|    | No-Building without variance would be<br>nearly impossible   |
| 3. | Is the variance substantial? Is it the minimum necessary?  |
|    | No- the Variance would allow for a similar build to other homes in the area  |
|    | build to other homes in the area   |
| 4. | Will the character of the neighborhood be substantially altered?   |
|    | NO- the Variance would allow a home that world blend seamless by with the neighborhood   |
|    | world plend seamless in with the regulation  |
| 5. | Would this variance adversely affect the delivery of government services?  |
|    | No-delivery of government services and   |
|    | Utilities would be unaffected  |



| 6. | Did the owner purchase the property with the knowledge of the zoning restraint?                             |
|----|---|
|    | 105- We were aware of significant challenger<br>that have posed problems for a number of previous<br>owners |
| 7. | Whether special conditions exist as a result of the actions of the owner?                                   |
|    | No- the property remains in its original condition as previous to purchase                                  |
| 8. | Whether the owner's predicament can be feasibly obviated through some other method?                         |
|    | No-only a variance will allow us to build on<br>the lot!  |
| _  |   |

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

yes-granting the variance would not impede, subtractor degrade from nearby properties, nor the property itself

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

No-granting a variance would allow the same privileges given to others in the district. A denied variance would dang this property the privilege that has been given to others.

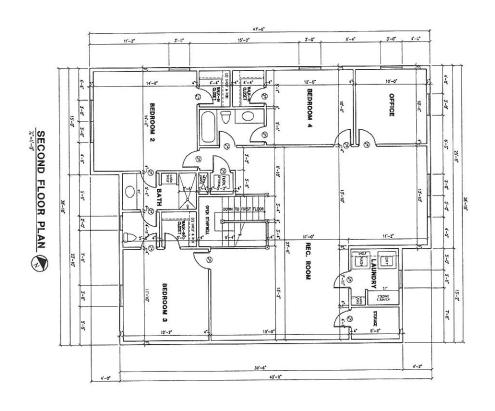


### CONSENT OF OWNER(S) TO INSPECT PREMISES

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 LOT 55 OLD CREEK TRAIL 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 MATT Board of Zoning Appeals Members: Mary Jo Byrnes Tom Mollov Jade Stewart Steve Uckotter Richard White

Eric Roth

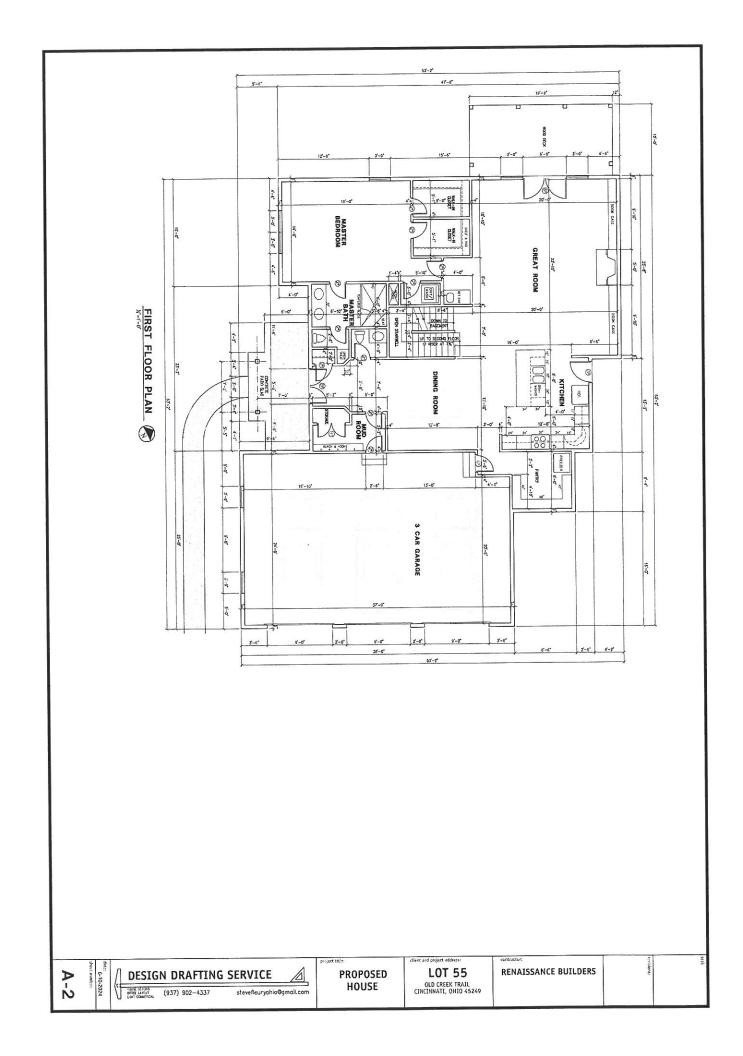
Mark Berliant

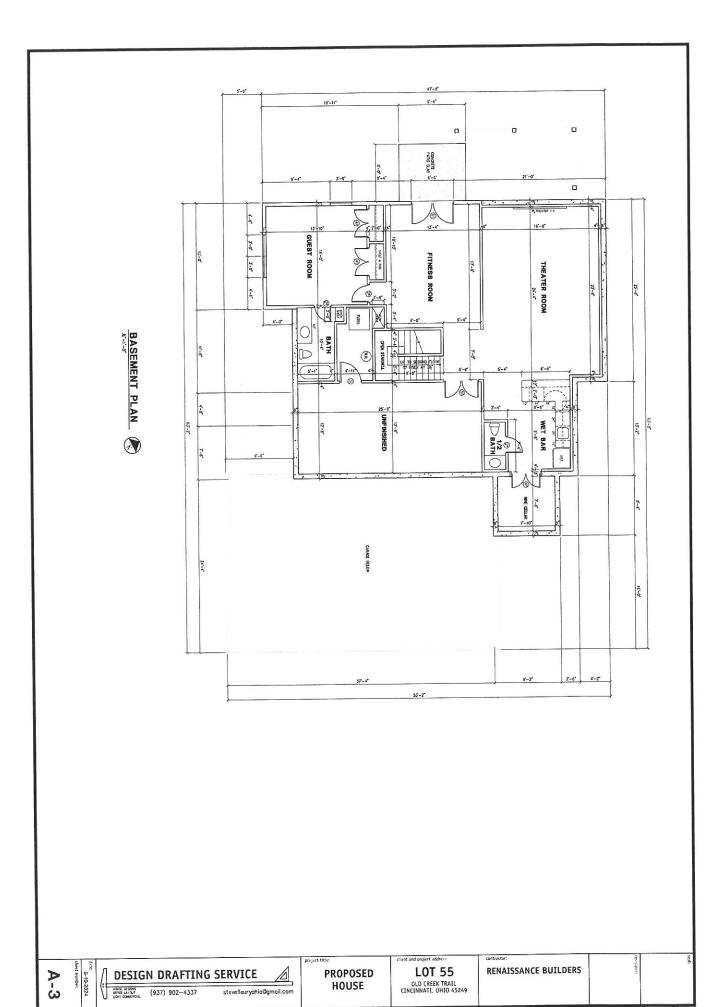


DESIGN DRAFTING SERVICE

PROPOSED
HOUSE

LOT 55
OLD CREK TRAIL
CINCINNATI, OHIO 45249





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

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

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

CITY HALL · 10101 MONTGOMERY ROAD · MONTGOMERY, OH 45242

#### February 27, 2024

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

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

11 12

- **Election of Officers**
- Ms. Stewart nominated Ms. Byrnes for Chairman for a period of one (1) year,
- beginning February 1, 2024.
- 15 Mr. White seconded the motion.
- 16 No other nominations were brought to the floor.
- 17 Mr. White moved to close nominations. Mr. Uckotter seconded the motion.
- 18 The Board unanimously approved the motion to close the nominations.
- 19 The Board unanimously approved the motion for Ms. Byrnes to be Chairman.

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- 21 Ms. Stewart nominated Mr. White for Vice-Chairman for a period of one (1) year,
- beginning February 1, 2024.
- 23 Mr. Uckotter seconded the motion.
- 24 There were no other nominations brought to the floor.
- 25 Ms. Stewart moved to close the nominations.
- 26 Mr. Uckotter seconded the motion.
- 27 The Board unanimously approved the motion to close the nominations.
- 28 The Board unanimously approved the motion for Mr. White to be Vice Chairman.

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

#### **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

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

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

(4)
ABSENT: Mr. Molloy

(1)

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#### Pledge of Allegiance

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 Board will be conducting one public hearing. A public hearing is a collection of testimony from

Board will be conducting one public hearing. A public hearing is a collection of testimony from City Staff, the applicant, and anyone wishing to comment on the case. All discussions by the

Board of Zoning Appeals and all decisions will take place within the business session of this

meeting, which immediately follows the public hearing. Everyone is welcome to stay for the

business session of the meeting, however, the Board will not take any further public comment

during the portion of the meeting, unless clarification is needed by a Board member.

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

court.

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She asked all guests to turn off their cell phones.

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

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

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#### **Guests and Residents**

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

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#### **New Business**

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.

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

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#### **Staff Report**

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

#### **Board of Zoning Appeals Meeting**

February 27, 2024

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

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

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Ms. Hays asked if the Board had any questions.

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

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

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- Ms. Stewart asked about the proposed signage, how high above the ground would it be?
- Ms. Hays stated that it would be 1 foot above the ground and the sign itself would be 4 feet high.
- Ms. Hays confirmed, stating that it would be 4 feet x 6 feet. The situation is unique because it is
- located in a residential multi-family zoning, and so they have to adhere to the same requirements as a single family house.

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Chairman Byrnes asked if the applicant wished to speak.

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

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

109 110

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.

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

118

There were no more questions for Mr. Homer.

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** February 27, 2024 Chairman Byrnes asked if any guests or residents had comments. There were none.

121 122 123 Adjournment Mr. White moved to close the public hearing. 124 125 Mr. Uckotter seconded the motion. 126 The public hearing adjourned at 7:15p.m. 127 Chairman Byrnes opened the business session at 7:15p.m. 128 129 130 **Business Session** 131 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 132 Lakes, to have a total of 24 square feet, with 5 feet in height. A maximum of 4 square feet, 133 4 feet in height is permitted, per Schedule 151.3011 of the Montgomery Zoning Code. 134 135 Chairman Byrnes asked for any thoughts from the Board. 136 137 138 Mr. Uckotter felt this sign was entirely appropriate for the site. 139 Ms. Stewart stated that you cannot read the current signs when you are driving down 140 Montgomery Road. Mr. Uckotter wasn't even aware there were signs there. 141 142 Mr. Uckotter moved to approve the request from Twin Lakes, for the property situated at 143 10120 Montgomery Road, Montgomery, Ohio 45242, to allow a temporary sign of 24 square 144 feet, and 5 feet in height, where a maximum of 4 square feet and 4 feet in height is permitted, 145 per Schedule 151.3011 of the Montgomery Zoning Code, as described in the City of 146 147 Montgomery Staff Report dated February 27, 2024. 148 This approval is justified by criteria # 3, 4, 5, 6, 7, 8, 9 & 10, as outlined in the Montgomery 149

Codified Ordinance Chapter 150.2010 (d) for granting variances. 150

152 Mr. White seconded the motion.

The roll was called and showed the following vote:

155 AYE: Ms. Stewart, Mr. Uckotter, Mr. White, Chairman Byrnes (4)156 (0)157 NAY: 158 ABSENT: Mr. Molloy (1)(0)159 ABSTAINED: 160

161 This motion is approved. 162

163 Adjournment

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Mr. Uckotter moved to close the business session.

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#### **Board of Zoning Appeals Meeting**

February 27, 2024

/ksb

| 1.65 | 1.1.1   |                           |      |
|------|---|---------------------------|------|
| 165  | Ms. Stewart seconded the motion.                  |                           |      |
| 166  | The business session adjourned at 7:18p.m.        |                           |      |
| 167  |   |                           |      |
| 168  | Chairman Byrnes opened the public hearing at 7:18 | Sp.m.                     |      |
| 169  |   | <u>*</u>                  |      |
| 170  | Other Business                                    |                           |      |
| 171  | There was no other business to report.            |                           |      |
|      | There was no other ousmess to report.             |                           |      |
| 172  |   |                           |      |
| 173  | Minutes   |                           |      |
| 174  | Mr. Uckotter moved to approve the minutes of Janu | ary 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 second   | ed the motion.            |      |
| 180  | The meeting adjourned at 7:20 p.m.                |                           |      |
|      | The meeting adjourned at 7.20 p.m.                |                           |      |
| 181  |   |                           |      |
| 182  |   |                           |      |
| 183  |   |                           |      |
| 184  |   |                           |      |
| 185  |   |                           |      |
| 186  |   |                           |      |
| 187  | Karen Bouldin, Clerk                              | Mary Jo Byrnes, Chairman  | Date |
| 188  | ,   |                           |      |

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

May 28, 2024

|  | PRESENT  |   |
|--|--|---|
| GUESTS & I   | STAFF  |   |
| Eric & Melissa Day<br>9912 Forestglen Dr., 45242           | Sarah Rumpke<br>10114 Woodfern Way, 45242        | Melissa Hays, City Planner  Karen Bouldin, Secretary                            |
| Connie Pillich &<br>Paul Furshey<br>9910 Forestglen, 45242 | Ruth Sproull<br>7786 Cooper, 45242               | ALL BOARD MEMBERS PRESENT Mary Jo Byrnes, Chairman Richard White, Vice-Chairman |
| Pauline Rickards<br>9898 Forestglen, 45242                 | Mike Wentz/Eric Hines 7213 Remington Road, 45242 | Mark Berliant Eric Roth Jade Stewart  |
|  |  | MEMBERS NOT PRESENT Tom Molloy Steve Uckotter                                   |

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

She welcomed two new members to their first Board meeting this evening: Mark Berliant and Eric Roth.

Chairman Byrnes stated that there were originally 3 cases on the agenda, and the applicant for 8821 Weller Road had asked to table their application, in advance of this meeting.

#### Roll Call

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

PRESENT: Mr. Roth, Mr. White, Mr. Berliant, Ms. Stewart, Chairman Byrnes (5)
ABSENT: Mr. Molloy, Mr. Uckotter (2)

Chairman Byrnes noted that a quorum of 4 Board members must agree on the same final decision for each application this evening.

#### Pledge of Allegiance

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

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

#### **Board of Zoning Appeals Meeting**

May 28, 2024

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

39 40

She asked all guests to turn off their cell phones.

41 42

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

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#### **Guests and Residents**

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

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#### New Business (1)

A request for a variance from Melissa Day, 9912 Forestglen Drive, Montgomery, OH 45242 to allow for an accessory structure, 14 feet x 40 feet, to have a setback of 8 feet from the side property line, where 15 feet is required, per Schedule 151.1009 (B) of the Montgomery Zoning Code. A second variance is requested to allow the structure to have a setback from the principal building of 4 feet, where 10 feet is required, per Schedule 151.1009 (B) of the Montgomery Zoning Code.

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#### Staff Report

Ms. Hays reviewed the Staff Report dated May 28, 2024, "Application for Variance: Eric and Melissa Day, 9912 Forestglen Drive".

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She showed drawings on the wide screen for all to see, to provide more understanding of the Staff Report. She indicated that emails were received—in favor of, and some not in favor of, this application. These are included in the members' packets. She asked for any questions.

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Chairman Byrnes asked about the 300 square feet of basement storage. Ms. Hays explained that the applicant has a smaller basement – it was not the entire footprint of the house. She deferred to the applicant.

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Chairman Byrnes asked about the shed. Ms. Hays stated that they plan to remove the current shed, and replace it. She noted that the one in the rear yard will be eliminated.

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#### **Board of Zoning Appeals Meeting**

May 28, 2024

Mr. Berliant referred to the structure that was denied a variance at 9121 Forestknolls Drive – he asked if that was adjacent to Forestglen Drive. Ms. Hays stated it was not, but that it was located in the same zoning, District A.

Chairman Byrnes asked if the applicant wished to speak.

Melissa Day, 9912 Forestglen Drive, Montgomery, OH 45242 stated that she and her family were applying for this variance, and were inspired by 2 succinct properties in the current neighborhood. One of her neighbors at 9884 Forestglen just recently completed their project — where they added an additional garage; they already had a 2-car garage. Her other neighbor at 10117 Woodfern Way had an attached secondary garage. She stated that she was interested in keeping the character of the house, noting that they have been invested in their home since 2017, and have replaced the siding on the home, along with other significant upgrades, including much around the water retention.

She felt there was some confusion from one of the emails received from a resident who did not want to support 2 structures. Ms. Day clarified that they are only proposing one structure, with 2 variances. She confirmed that they would remove the existing shed in the back of the property and also remove the trailer in the rear of the property that was being used for storage. The contents of these two items would be stored in this one new proposed structure.

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

Ms. Stewart asked why the proposed structure couldn't be situated in a way that did not require a variance. Ms. Day referred to the site plan on the wide screen and showed a possibility of locating this structure in the rear. She pointed out that their home was already non-conforming and there was a flag lot behind them. She stated that there were two residents who lived on the property right behind them, and the structure would be placed right in front of their front window (if they met all zoning requirements). In addition, they would be paving to the entire rear, which would increase water run-off—already a huge challenge. They currently have a retention basin in the rear, because it all drains to a creek. Their intention was to keep this structure advantageous for all surrounding neighbors.

Chairman Byrnes asked for the intended use of this structure, other than storage. Ms. Day stated that her husband has a truck that he would like to park in there, as it doesn't fit in their 1970s sized garage. This would be a single-car garage for his truck and a mini workshop area in the back that would hold all of the tools/contents from the shed and trailer.

Chairman Byrnes asked if they would attempt to run a business out of there. Ms. Day stated not, that they were not producing anything, it was just to store his tools. She stated that her husband was not currently working onsite. Chairman Byrnes asked if he hauled his tools in the truck. She wanted to be sure that they were not going to start a business out of this location. Ms. Day stated they were not. Mr. White stated that the size of the building makes us wonder about it.

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#### **Board of Zoning Appeals Meeting**

May 28, 2024

- 116 Mr. Berliant referred to, and inquired about the Staff Report the Staff Comments and
- 117 Recommendations. Staff noted that she was pointing out the Code. Chairman Byrnes asked
- 118 Staff about the 2 homes that the applicant cited who had similar structures. Ms. Hays was
- unaware of the details regarding the two houses referenced.

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121 Ms. Day felt that her situation was unique because it was already non-conforming.

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- Mr. Roth asked why they didn't just attach the garage to the structure. Ms. Day noted that there
- were two existing windows, and would like to leave space so that air flow could still move
- through there; the windows were from the master bathroom. She noted that the structure could
- be connected with a gate. They felt the separate structure would tie in, as a number of the houses
- in the area have a pass-through similar to that.

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- Mr. Roth asked why it was 17 feet to the peak. Ms. Day stated that they wanted it to match the existing pitch. She stated that they could pull it down, if needed. Ms. Hays clarified that it was actually 13 feet, 11 inches at the highest point, not 17 feet. Ms. Day stated that the property
- slopes, so the rear was lower than the front.

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- Mr. Roth asked if the garage door would be a standard size garage door. Ms. Day confirmed.
- Mr. Roth noted that a cap on the truck may require a larger door. Ms. Day stated that their
- intention was for this to look like a garage, not an industrial building which was one of the
- neighbor's concerns. Ms. Hays asked if it would be an 8 foot garage door, and Ms. Day
- 138 concurred.

139

- 140 Ms. Stewart asked if the building could be rotated 90 degrees, around the back of the home.
- 141 Ms. Day stated that it was possible, but it would increase the pavement and would eliminate the
- 2 windows in the master bedroom. She felt it would devalue the property. Ms. Day pointed it
- out on the wide screen.

144

- Mr. Berliant asked if they had considered any fallback position or amending their proposal, if the
- Board has an issue with approving this. Ms. Day stated that they may need to move; that they
- love the area and they are trying to make this work. She stated that they have significantly
- invested in this property, at least \$200,000. Mr. Roth pointed out that the applicant has proposed
- two different proposals. Ms. Day agreed, noting that the other option was not ideal, they were
- trying to find something that would satisfy the surrounding neighbors. She noted that they have
- talked with their immediate neighbors that would be directly affected.

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- 153 Chairman Byrnes asked about the responses specifically one from the neighbor to their right.
- Ms. Day stated that the Klotz's at 9914 Forestglen submitted a letter in favor of this proposal.
- Ms. Hays stepped out to make copies of this email and then distributed to the Board. This would
- make a total of 5 emails received from neighbors.

- Ms. Day wanted to clarify that the email received from the Grotes implied that they were
- requesting 2 structures, which was not the case. The Hubers were also not in favor of this
- 160 proposal.

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#### Board of Zoning Appeals Meeting

May 28, 2024

161

Mr. Roth asked why the applicant wanted 40 feet, noting that a standard garage was about 20 feet deep. This structure would basically be 2 cars deep. Ms. Day reiterated that they will use the rest of the space to hold the tools and items that were currently in the trailer and shed in the rear of their property. The trailer and shed would be eliminated, and not parked in the garage.

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Ms. Stewart asked if the alternative structure will be about where the current shed is. Ms. Day stated it would. She showed all on the wide screen.

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Chairman Byrnes asked if any guests or residents had comments.

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Connie Pillich, 9910 Forestglen, Montgomery, OH 45242 stated that she has a panhandle lot, and since the Days moved in, they have done a tremendous amount of work on their property, and it has changed Connie's property, for the better. Drainage was one of the challenges she faced, and every time there was a huge rain, it would overflow, go into her garage and family room – a disaster every year. Ms. Pillich had undertaken lots of remedial work, but when the Days put in the retention pond and reworked all of the land behind their house, it made a great improvement. Ms. Pillach was concerned with 3 items, if the lesser preferred option takes place:

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1) All of the paving will increase, and could create water overflow into her house again.

180 181 182 2) Hardship and character to the neighborhood: having the structure in the back would interfere with the view and lighting that they currently have. A structure in front of her kitchen window would be very unpleasant.

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3) For the character of the neighborhood: the work that Eric Day does is incredible. He did a great job cleaning up the property, making it beautiful, landscaping and drainage. She felt this structure would be aesthetically pleasing.

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Ms. Pillach supported the Days' preferred location because it would keep the character of the neighborhood, and be beneficial to her home, as well.

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Chairman Byrnes asked if the pond with a net over it, was the retention pond. Ms. Pillach confirmed. Ms. Pillach noted that her home was very close to the property line, and they had to do it that way because there was a creek right behind their home. She explained that the creek was a stormwater run-off creek and that is why there are drainage issues from the Days property to theirs. It is a nice big slope. Having their garage further up would be very nice for her.

194 195 196

#### Adjournment

- Mr. White moved to close the public hearing.
- 198 Ms. Stewart seconded the motion.
- The public hearing adjourned at 7:40p.m.

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Chairman Byrnes opened the business session at 7:40p.m.

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#### **Business Session (1)**

A request for a variance from Melissa Day, 9912 Forestglen Drive, Montgomery, OH 45242 to allow for an accessory structure, 14 feet x 40 feet, to have a setback of 8 feet from the side

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#### **Board of Zoning Appeals Meeting**

May 28, 2024

property line, where 15 feet is required, per Schedule 151.1009 (B) of the Montgomery Zoning
Code. A second variance is requested to allow the structure to have a setback from the
principal building of 4 feet, where 10 feet is required, per Schedule 151.1009 (B) of the
Montgomery Zoning Code.

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Chairman Byrnes asked for comments from the Board.

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Ms. Stewart stated that this reminded her of a recent request for a very large structure that would be used for a garage and storage that was denied under certain circumstances. She felt that we needed to apply the Code, and determine if this was substantial and the minimum necessary. She felt this was 50% more than substantial, and that it was not the minimum necessary. She did not feel that there was a practical difficulty. She pointed out that people can do whatever they want on their property if it doesn't require a variance. She felt this would set a precedent, and was not in favor of this variance. She believed that they could make this structure smaller or move it around the back.

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Mr. Roth suggested an alternative to building an oversized garage - utilize an offsite rental storage facility. His concern was with the overall size and impact of a 560 square foot building. He stated that it could be set back and angled, so that the master bedroom windows were not impeded. It may not be the most desirable, but there was enough lot size and property to actually put the garage in the back. He understood their thinking on the preferred proposal, but pointed out that they were not hemmed in, with no other alternatives.

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Chairman Byrnes agreed, noting that there were also alternatives to blacktop and impervious surfaces. She felt that this would set a precedent for basically any house on a slab, to ask to cut the setbacks in half to allow for more storage. She was concerned with this precedent.

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Mr. Berliant referred to his earlier question about their alternative plans, and he would like to see them amend their plan so they didn't require a variance.

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Ms. Stewart moved to approve the request for a variance from Eric and Melissa Day, 9912 Forestglen Drive, Montgomery, Oh 45242 to allow for an accessory structure, 14 feet x 40 feet, to have a setback of 8 feet from the side property line, where 15 feet is required, per Schedule 151.1009 (B) of the Montgomery Zoning Code, as described in the City of Montgomery Staff Report, dated May 28, 2024.

240241242

This approval is in accordance with the site plan dated April 22, 2024.

243244

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

245246

Mr. White seconded the motion.

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The roll was called and showed the following vote:

| 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.                              |  |  |
| T COT 1 A I No  |  |  |

|     | May 28, 2024  |     |
|-----|---|-----|
| 251 | AYE:  | (0) |
| 252 | NAY: Mr. Berliant, Ms. Stewart, Mr. Roth, Mr. White, Chairman Byrnes                        | (5) |
| 253 | ABSENT: Mr. Molloy, Mr. Uckotter  | (2) |
| 254 | ABSTAINED:  | (0) |
| 255 |   |     |
| 256 | This motion is denied.  |     |
| 257 |   |     |
| 258 | Ms. Stewart moved to approve the request for a variance from Eric and Melissa Day, 9912     |     |
| 259 | Forestglen Drive, Montgomery, OH 45242 to allow the proposed structure to have a setbag     | ck  |
| 260 | from the principal building of 4 feet, where 10 feet is required, per Schedule 151.1009 (B) | of  |
| 261 | the Montgomery Zoning Code, as described in the City of Montgomery Staff Report, dated      |     |
| 262 | May 28, 2024.   |     |
| 263 |   |     |
| 264 | This approval is in accordance with the site plan dated April 22, 2024.                     |     |
| 265 |   |     |
| 266 | This approval is justified by criteria # 5, 6, & 7, as outlined in Montgomery Codified      |     |
| 267 | Ordinance Chapter 150.2010 (d) for granting variances.                                      |     |
| 268 |   |     |
| 269 | Mr. White seconded the motion.  |     |
| 270 |   |     |
| 271 | The roll was called and showed the following vote:  |     |
| 272 |   |     |
| 273 | AYE:  | (0) |
| 274 | NAY: Mr. Roth, Mr. White, Mr. Berliant, Ms. Stewart, Chairman Byrnes                        | (5) |
| 275 | ABSENT: Mr. Molloy, Mr. Uckotter  | (2) |
| 276 | ABSTAINED:  | (0) |
| 277 |   |     |
| 278 | This motion is denied.  |     |
| 279 |   |     |
| 280 | Adjournment   |     |
| 281 | Mr. White moved to close the business session.  |     |
| 282 | Mr. Berliant seconded the motion.   |     |
| 283 | The business session adjourned at 7:50p.m.  |     |
| 284 |   |     |
| 285 | Chairman Byrnes opened the public hearing at 7:50p.m.                                       |     |
| 286 |   |     |
| 287 | New Business (2)  |     |
| 288 | A request for a variance from Eric Hines and Mike Wentz, 7213 Remington Road,               |     |
| 289 | Montgomery, OH, potential buyers of the property located at 9393 Shelly Lane, Montgome      | ry, |

OH 45242 to allow an addition to provide on-site parking spaces, where Schedule 151.3204

and Schedule 151.3207 of the Montgomery Zoning Code requires a minimum of 10 spaces in

293 294 **Staff Report** 

the Outer Old Montgomery District.

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

#### **Board of Zoning Appeals Meeting**

May 28, 2024

295 Ms. Hays reviewed the Staff Report dated May 23, 2024, "Application for Variance: Former

296 Don's Auto at 9393 Shelly Lane".

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

Mr. White asked for some clarity on the last paragraph on page 10 of the Staff Report. Ms. Hays explained that it was intended to allow some flexibility so that the applicant is not locked specifically into the office and retail use; to allow the entire building to have parking, as if all of the floor space was retail. That is what the calculation is based on. This does not allow for a high intense use, like a gym. Anything of an intense use would require another review.

Chairman Byrnes asked if the applicant wished to speak.

Michael Wentz, 7213 Remington Road, Montgomery, OH 45242 stated that he and Eric Hines would like to purchase this building, but it is contingent on this variance. Eric lives at 7813 Remington Road, right around the corner, and Mike's office is in the building on the opposite side of the City Parking Lot. They have been at this office at 7213 Remington for 15 years and love it there. They fully understand the purpose of the City Parking Lot, and this is one of the reasons that this property was attractive to them. The building takes up 85% of the entire site, and while there is a possibility to park some cars in the front, this is not their intention, after the building is renovated.

Chairman Byrnes asked if they plan to move their office from 7213 Remington to this site at 9393 Shelly Lane. Mr. Wentz confirmed, noting that this will double their space.

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

Mr. Berliant asked if there were any other contingencies that would prevent them from closing on this property, if this variance were to be approved. Mr. Wentz stated that there were not; they already had financing in place. They have also received approval from the Landmarks Commission, and for the change of use. This is the last stepping stone. They hope to close within the next couple of weeks.

Chairman Byrnes asked if this variance runs with the property. Ms. Hays confirmed that it did, for a period of one year.

Chairman Byrnes asked if any guests or residents had comments.

Ruth Sproull, 7786 Cooper, Montgomery, OH 45242 stated that she had received notice of this variance, as she lived within 300 feet of this property. She was in support of this project.

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339 Adjournment

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340 Mr. White moved to close the public hearing. Ms. Stewart seconded the motion. 341

The public hearing adjourned at 8:12p.m. 342

Chairman Byrnes opened the business session at 8:12p.m.

**Business Session (2)** 

A request for a variance from Eric Hines and Mike Wentz, 7213 Remington Road, 347 Montgomery, OH, potential buyers of the property located at 9393 Shelly Lane, Montgomery, 348 OH 45242 to allow an addition to provide on-site parking spaces, where Schedule 151.3204 349 and Schedule 151.3207 of the Montgomery Zoning Code requires a minimum of 10 spaces in 350

the Outer Old Montgomery District. 351 352

Chairman Byrnes asked for comments from the Board.

All members were in support of this project.

Ms. Stewart moved to approve the request from Eric Hines and Mike Wentz, 7213 Remington Road, Montgomery, OH 45242, potential buyers of the property located at 9393 Shelly Lane. Montgomery, OH 45242 to allow an addition to provide zero (0) on-site parking spaces, where Schedule 151.3204 and Schedule 151.3207 of the Montgomery Zoning Code requires a minimum of 10 spaces in the Outer Old Montgomery District.

This approval is based on the City of Montgomery Staff Report, dated May 23, 2024, with the following condition:

1. To allow for future flexibility: if the building is used for a more intense use than as currently proposed (4 spaces per 1,000 square feet), then additional consideration and approvals would be required.

This approval is justified by criteria # 1, 2, 3, 4, 5, 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:

375 (5) 376 AYE: Mr. White, Mr. Berliant, Ms. Stewart, Mr. Roth, Chairman Byrnes (0)377 NAY: 378 ABSENT: Mr. Molloy, Mr. Uckotter (2)(0)379 ABSTAINED:

381 This motion is approved.

Adjournment

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** May 28, 2024 Mr. White moved to close the business session. Ms. Stewart seconded the motion. The business session adjourned at 8:17p.m. Chairman Byrnes opened the public hearing at 8:17p.m. Other Business Mr. Roth asked Staff is there was an enforcement procedure that ensured that the applicant completed their plan, as submitted, and not just do something different. Ms. Hays stated that everything goes through her – which makes it easy because she is very familiar with the plans. She also receives the building permits and verifies that they are in accordance with their approved plans. Mr. Roth asked what would happen if the applicant changed their mind and did not complete their application. Ms. Stewart stated that the variance was only good for one year – and after that, they would need to resubmit. Mr. Roth referred to the February minutes, where permission was granted for Twin Lakes to put up a temporary sign. He asked if there was a definition anywhere for "temporary". Ms. Hays stated that if it pertains to a construction sign, when the construction has been completed, they have a certain amount of days to remove the sign. Staff noted that there are other definitions also – you have the right to have a sign in your yard It was decided to approve the February 27, 2024 minutes at the June 25 meeting.

(freedom of speech) regarding your beliefs. That can be out all year long.

409 Minutes

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Adjournment

Mr. Roth moved to adjourn. Mr. White seconded the motion. 413

The meeting adjourned at 8:20p.m. 414

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418 Karen Bouldin, Clerk Mary Jo Byrnes, Chairman

Date

420 /ksb