

Board of Zoning Appeals Agenda
April 27, 2021
City Hall

This meeting will also be conducted via videoconference on Zoom at <https://us02web.zoom.us/j/86035878074> or you may call in at 312-626-6799 (Webinar ID: 86035878074).

7:00 p.m.

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

Agenda Item 1

7936 Jolain Drive: Property owners, Mike and Christina Lake are requesting a variance to allow a western side yard setback of 11'6" for a length of 19'2" an addition, where Schedule 151.1005 of the Montgomery Zoning Code requires a minimum side yard setback of 12' in the 'B' District.

Agenda Item 2

7957 Cooper Road: Thomas Hattersley, property owner, is requesting a variance to create a new panhandle lot with a lot size of 26,985 square feet, where 30,000 square feet is the minimum required per Section 151.1004(D)(2) of the Montgomery Zoning Code. The applicant is also requesting a variance to allow the front lot to be 17,990 square feet in size where 20,000 is the minimum lot size required in the 'A' District per Schedule 151.1004 of the Montgomery Zoning Code.

Agenda Item 3

7880 Remington Road: Property owner, Steve Tosh on behalf of Sycamore Land Owner, LLC, the applicant is requesting a variance to allow the number of outdoor seats to be 75% of the total number of seats inside the restaurant where 30% is the maximum permitted per Section 151.1210(C) of the Montgomery Zoning Code. The current number of outdoor seats is 27 and the applicant is proposing a total of 68 outdoor seats. This addition of outdoor seating is in conjunction with a proposed new deck.

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

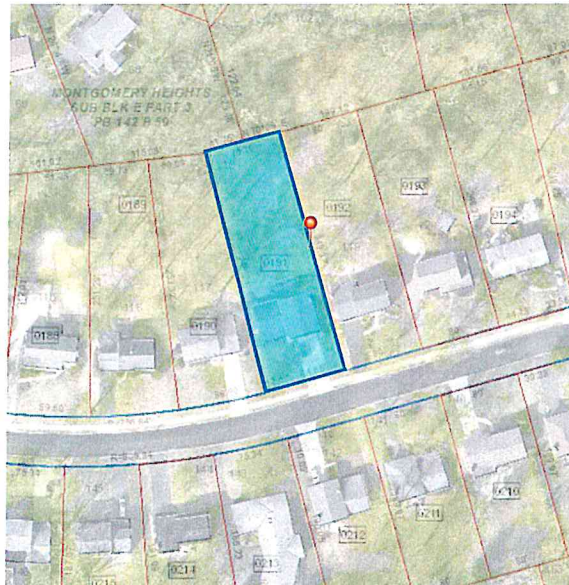
**Application for Variance: Mike and Christina Lake
7936 Jolain Drive**

**April 27, 2021
Staff Report**

Applicant: Team B Architecture & Design
1546 Knowlton Street, Suite 202
Cincinnati, Ohio 45223

Property Owner: Mike and Christina Lake
7936 Jolain Drive
Montgomery, Ohio 45242

Vicinity Map:



Nature of Request:

The applicant is requesting a variance to allow a side yard setback of 11'6" for an addition, where Schedule 151.1005 of the Montgomery Zoning Code requires a minimum side yard setback of 12' in the 'B' District.

Zoning:

This property is zoned 'B' single-family residential. All of the adjoining properties are zoned 'B' single-family residential and used for single-family residences.

Findings:

1. The Montgomery Heights Subdivision was approved as a planned unit development by City Council in September of 1956 and included 256 single-family lots. The minimum lot size was 15,000 square feet, and the side yards were to be a total of 25 feet with a minimum side-yard of 10 feet. Buildings were required to be set back 50' from the road.
2. The City rezoned this area to 'B' single-family residential, rescinding the PUD regulations. The City adopted a new zoning map in December of 2001, which reconfirmed the 'B' zoning.
3. The lot is 19,515 square feet, which exceeds the 15,000 square foot minimum in the 'B' District.
4. Chapter 151.1005 requires principal buildings to be a minimum of 12 feet from the side property lines in the 'B' zoning district and the current home meets this requirement.

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 conforming in lot size and the building meets the current setback requirements. However, the lot narrows in width from the front to the rear, going from a width of 81.82' at the street down to 76.19' at the rear property line.

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

Staff is of the opinion that the property would yield a reasonable rate of return if the variance is not granted. However, the addition is proposed to be aligned with the current western plane of the house. In addition, the applicant is requesting the addition to be on the opposite side of the recorded 5' drainage easement, which runs along the eastern property line.

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

The variance from the required side yard setback is minimal, as the applicant is requesting a 4% reduction in the required side yard setback. It is the minimum necessary to align with the current western plane of the house, and the need for the variance is due to the angle of the lot created by the difference in width from the front lot line to the rear lot line.

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

Staff believes that the character of the neighborhood would not be altered, as the request is minimal, and the addition would not extend past the existing western plane of the home. In addition, many of the homes have non-conforming side yard setbacks, as the minimum required at the time the subdivision was platted was 10' for the subdivision.

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?*

The applicant has stated the owners were not aware of the side yard setback requirement.

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 home could be expanded in another area of the house; however, the applicant has aligned the new hallway for the addition close to an existing window in order to work with the current lay out of the kitchen. In addition, the house is a split level, and the applicant is requesting to extend the living space on the same level.

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

The intent of the side yard setback requirement for structures is to allow for enough separation between structures, as well as provide for a more uniformed neighborhood image. 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 characteristics of the neighborhood, the request is reasonable, and a practical difficulty has been established.

Staff is of the opinion that the setback encroachment would not alter the character of the neighborhood, as an 11'6" side setback for an addition on the house would align with the existing setback and is a reasonable request. The slight narrowing of the lot reduces the building envelope marginally, creating the need for a variance. In addition, many of the homes in this subdivision have a 10' setback in accordance with the original requirements when the subdivision was approved in 1956.

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

Several variances have been granted in this area with regards to setbacks. The variances granted in this District are outlined below:

A side-yard variance to allow a master bedroom addition to encroach into the required setback a maximum of 2.13 feet for a length of 22 feet was granted for the property located at 9804 Tollgate Lane on August 28, 2007.

A side-yard variance to allow a room addition to encroach into the required setback a maximum of 2.11 feet for a length of 23 feet was granted for the property located at 9814 Tollgate Lane on January 23, 2008.

A rear-yard variance to allow for a covered patio to extend 10' into the required setback was granted for the property located at 9801 Tollgate Lane with the condition that the covered patio would not be enclosed on June 23, 2009.

A side yard setback variance to allow for a covered porch on a new home to extend into the side yard setback of .3' was granted for the property located at 9860 Tollgate Lane on April 26, 2016.

A side yard setback variance to allow for a new single-family dwelling to extend 2' into the setback was granted for the property located at 7900 Mitchell Farm on August 22, 2019.

A side yard setback variance to allow for an addition to encroach 1' into the setback at 7915 Jolain Drive was approved on November 26, 2019.

One side yard setback variance in the District was denied:

A side yard setback variance to allow for an addition to encroach 11' into the setback at 9833 Tollgate Lane was denied on July 28, 2020.

Staff Comments and Recommendations

Staff believes that the side-yard variance may be justified by the configuration of the lot, which narrows slightly to the rear, and the floorplan of the existing home, which is multi-level. Staff does not have a concern with a potential negative impact of the building addition, as it is in line with a portion of the existing house and many homes within the Montgomery Heights Subdivision have a non-conforming 10' side yard setback. In addition, the applicants request is minimal, as only a 6" reduction is being requested.

Granting the variance to allow the proposed addition to have a setback of 11'6" where 12' is required for a length of 19'2" is in substantial compliance with the survey stamped drawing dated 4/5/21, and would be justified by criteria #1, 3-10.



APPLICATION FORM

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

Project Address (Location): 7936 Jolain Drive

Project Name (if applicable): Jolain Addition

Auditors Parcel Number: 060300080191

Gross Acres: 0.448 Lots/Units 1 Commercial Square Footage N/A

Additional Information: _____

PROPERTY OWNER(S) Mike Lake Christina Lake Contact mike_lake@hotmail.com christina.canis@gmail.com

Address 7936 Jolain Drive Phone: (513) 289-4673

City: Cincinnati State OH Zip 45242

E-mail address _____

APPLICANT Team B Architecture & Design Contact Quinn Kummer

Address 1546 Knowlton St. Ste. 202 Phone: 513 830 5132

City Cincinnati State OH Zip 45223

E-mail address quinn@team-b.co

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

Michael Lake

FOR DEPARTMENT USE

Print Name

Michael Lake

Date

4/5/21

Meeting Date:

Total Fee:

Date Received:

Received By:



CONSENT OF OWNER(S) TO INSPECT PREMISES

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

Re: Review Subject Site

Dear Members and Staff:

As owner(s) of the property located at 7936 Jolain Dr., we hereby grant permission to Members of the Board of Zoning Appeals and City of Montgomery Staff to enter the property for visual inspection of the exterior premises. The purpose of said inspection is to review the existing conditions of the subject site as they relate to the application as filed to the Board of Zoning Appeals.

Property Owner(s) Signature

Michael Lake

Print Name

Michael Lake

Date

4/5/21

Board of Zoning Appeals Members:

Mary Jo Byrnes

Doug King

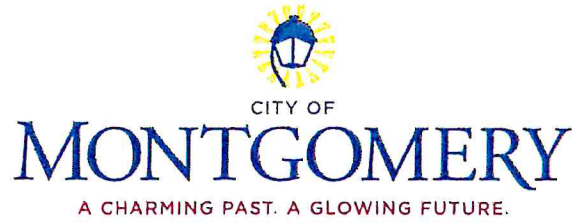
Tom Molloy

Bob Saul

Steve Uckotter

Richard White

Peter Fossett



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 irregularly shaped. The existing home is aligned to Jolain Drive, and the slight angle of the western property line cuts into the buildable area at the rear yard.

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

The addition will raise the value of the property. The variance allows for a more functional layout of interior and exterior spaces.

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

The variance is minimal - a 6" dimensional variance is needed to the side yard setback.

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

This variance will not change the character of the neighborhood. New construction will be mostly invisible from the public right of way. The new addition aligns with the extents of the existing structure. A strict adherence to the side yard setback would force the new addition to angle or step away from the existing architecture in an abnormal / less-characteristic way.

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

No affect to government services is anticipated.



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

Owners were not aware of the relatively tight clearance to the side yard setback.

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

No special conditions.

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

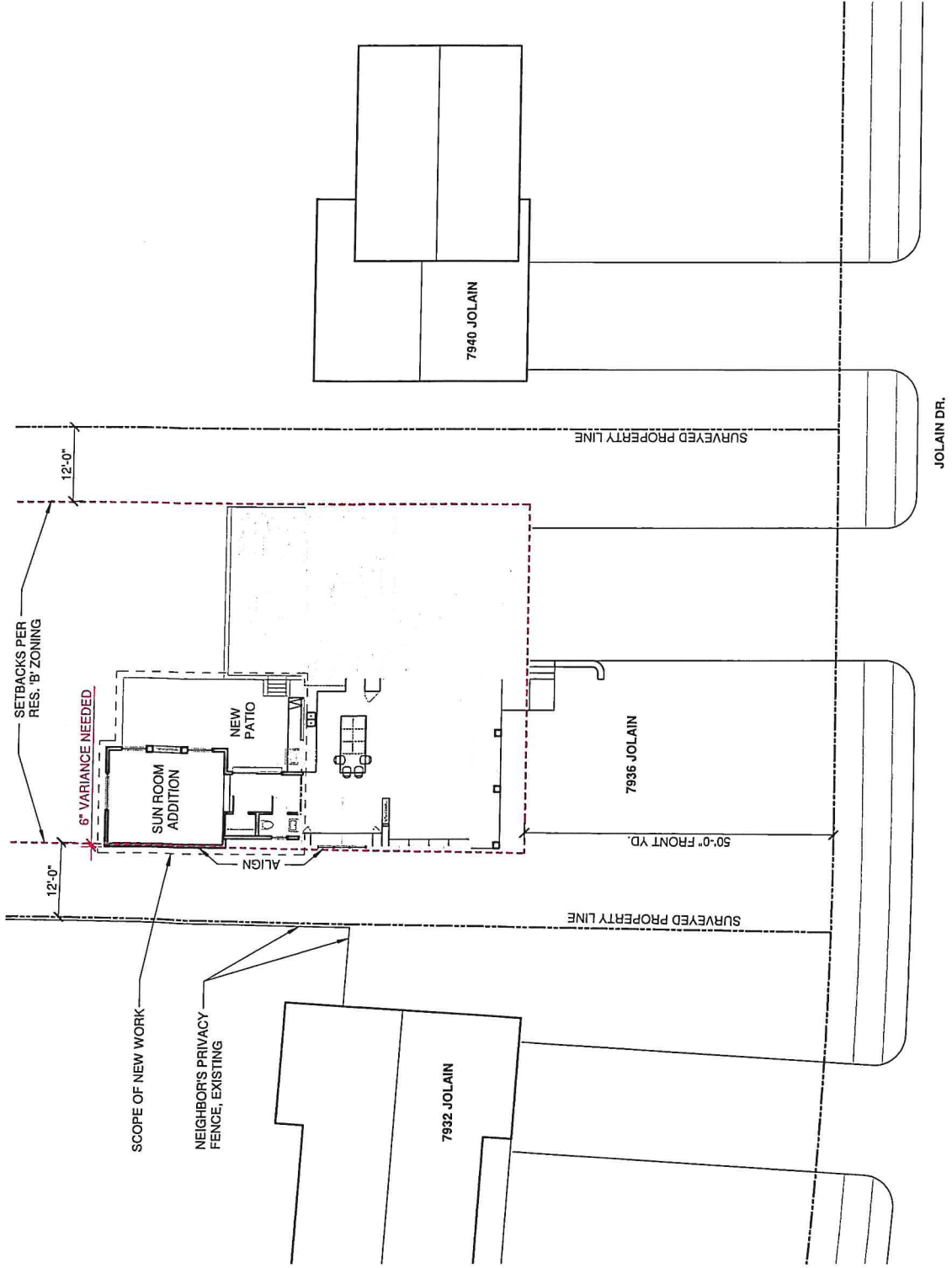
A redesign would require additional design fees and push back the start of construction.

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

We believe the design is in character with the neighborhood, and that it is in the spirit of the zoning requirements. It is reasonable to assume that the line of the existing building conforms to the underlying zoning, and that an extension of this line is allowable to a reasonable depth of the rear yard.

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

No special privilege.



DRAWING TITLE
 SITE PLAN
 OPT1 - ALIGNED TO EXISTING

SCALE 1/16" = 1'-0"
 DATE 4.5.2021

PROJECT NAME
 PRIVATE RESIDENCE ADDITION - 7936 JOLAIN DRIVE

TEAM B ARCHITECTURE + DESIGN



0 4' 8' 16' 32'

JOLAIN DR.

SURVEYED PROPERTY LINE

7936 JOLAIN

50'-0" FRONT YD.

SURVEYED PROPERTY LINE

7932 JOLAIN

NEIGHBOR'S PRIVACY FENCE, EXISTING

SCOPE OF NEW WORK

6" VARIANCE NEEDED

SETBACKS PER RES. 'B' ZONING

12'-0"

12'-0"

SURVEYED PROPERTY LINE

7940 JOLAIN

SURVEYED PROPERTY LINE

SUN ROOM ADDITION

NEW PATIO

ALIGN

50'-0" FRONT YD.

SURVEYED PROPERTY LINE

7936 JOLAIN

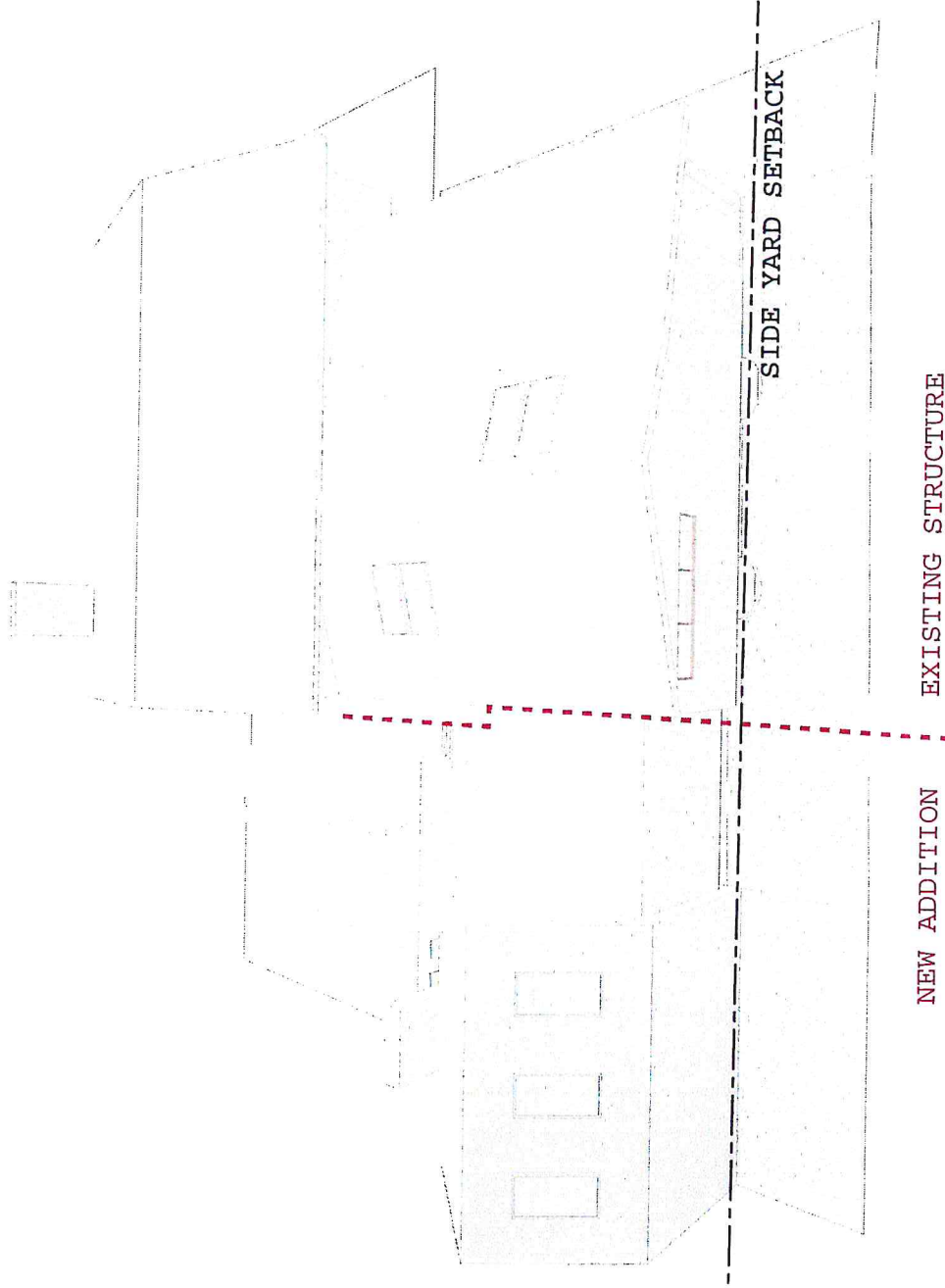
SURVEYED PROPERTY LINE

7940 JOLAIN

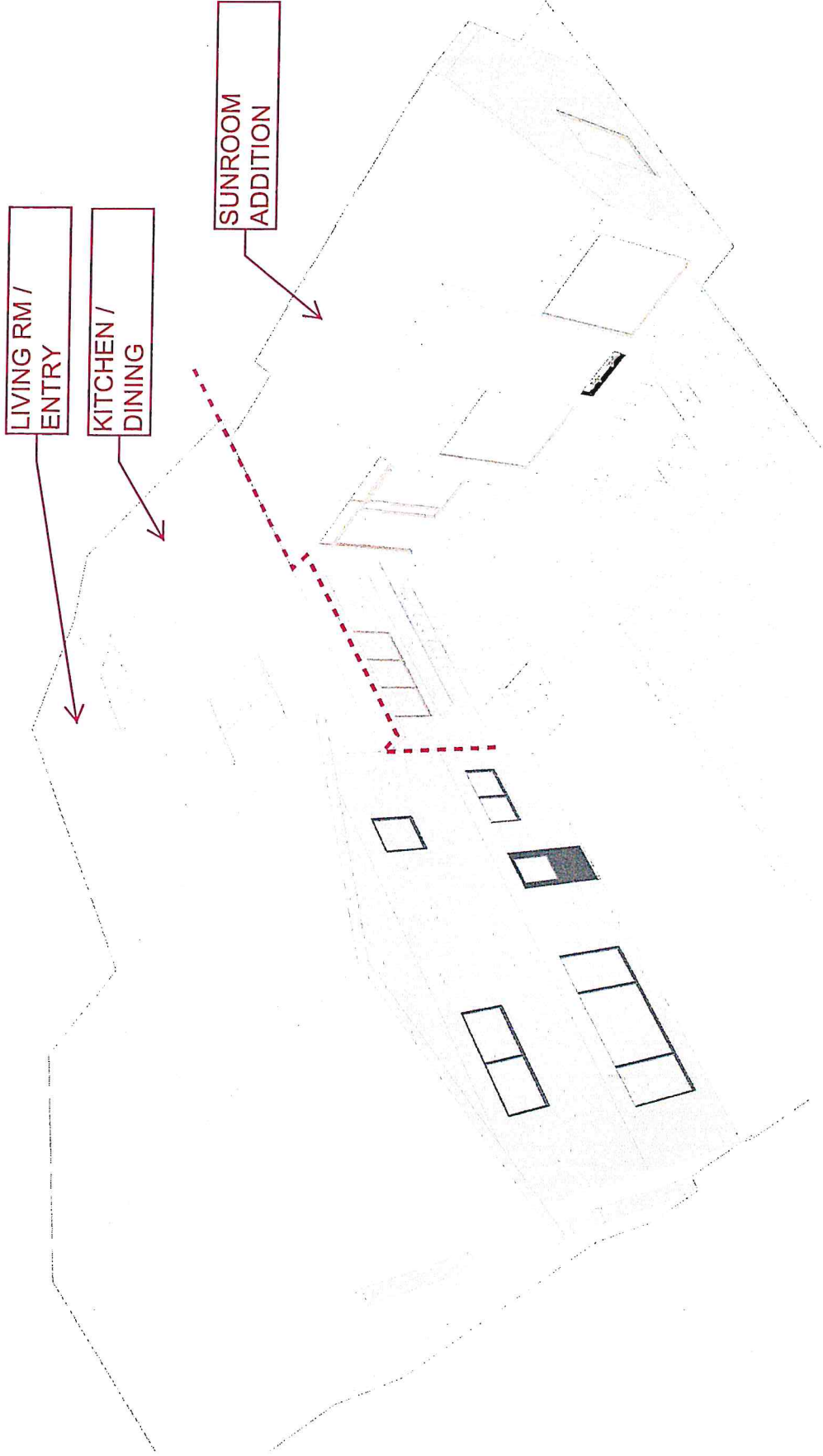
SURVEYED PROPERTY LINE

JOLAIN DR.

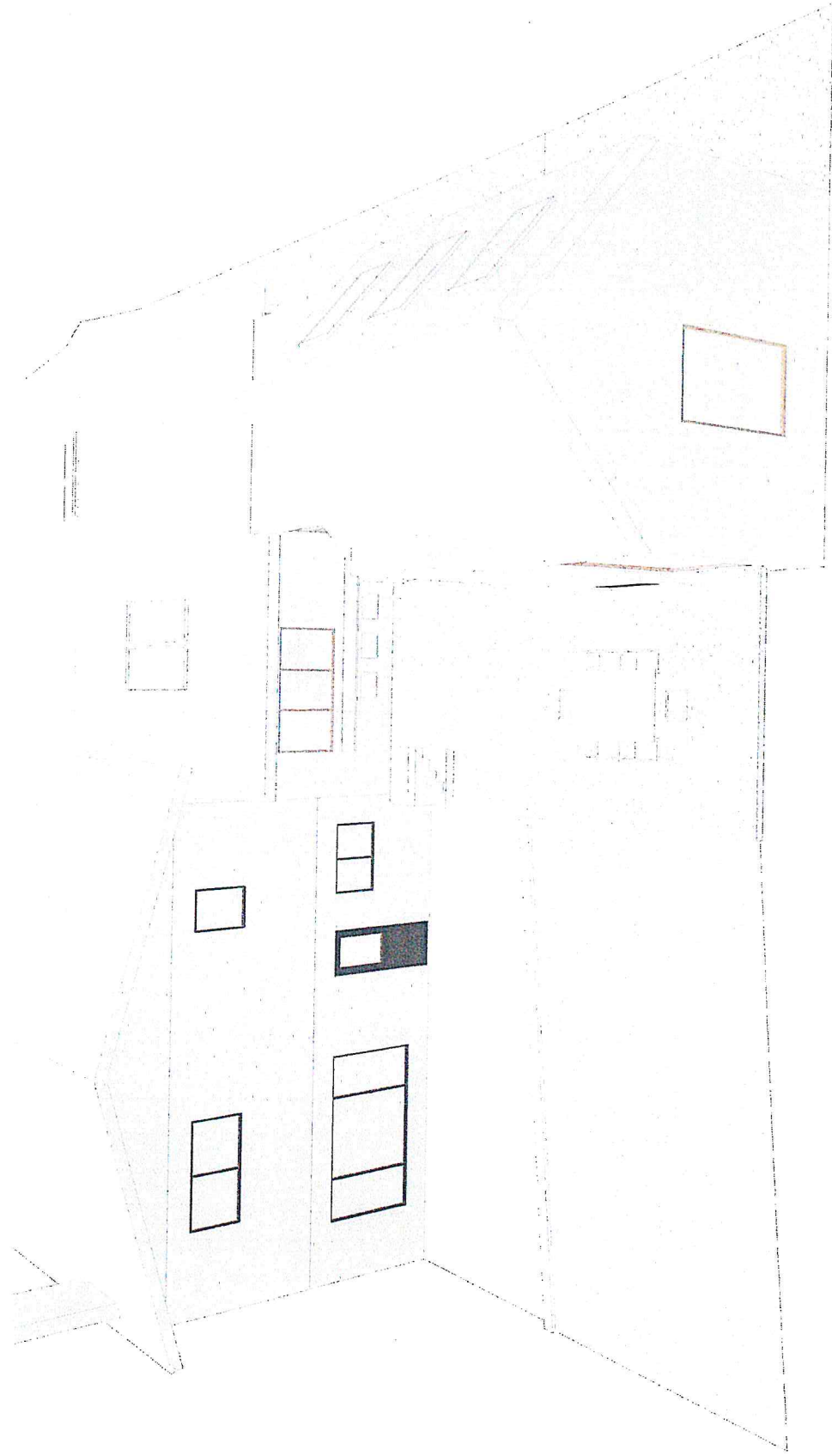
JOLAIN RESIDENCE
3D VIEWS



JOLAIN RESIDENCE
3D VIEWS



JOLAIN RESIDENCE
3D VIEWS



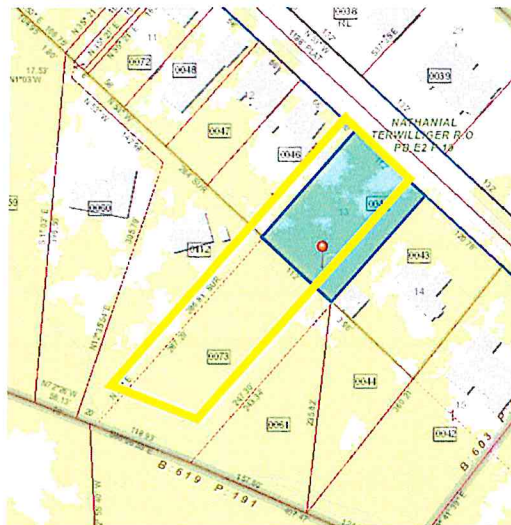
Application for Variance: *Thomas & Sharon Hattersley*
7957 Cooper Road

April 27, 2021
Staff Report

Applicant: Thomas and Sharon Hattersley
7967 Cooper Road
Montgomery, Ohio 45242

Property Owner: SAME

Vicinity Map:



Nature of Request:

The applicant is requesting a variance to create a new panhandle lot with a lot size of 26,985 square feet, where 30,000 square feet is the minimum required per Section 151.1004(D)(2) of the Montgomery Zoning Code. The applicant is also requesting a variance to allow the front lot to be 17,990 square feet in size where 20,000 is the minimum lot size required in the 'A' District per Schedule 151.1004 of the Montgomery Zoning Code.

Zoning:

The property is zoned 'A' - Single Family Residential and currently contains two parcels under one address. All surrounding properties to the north, east and west are also zoned 'A' single family residential. The properties to the south are within the Village of Indian Hill and are being used as single-family residences.

Findings:

1. The address 7957 Cooper Road contains two individual lots. The front lot (Parcel 060300040045) is currently 18,077 square feet and the rear lot (Parcel 060300040013) is 29,577 square feet in size. The front lot is legal non-conforming in lot size, as the minimum lot size for the District is 20,000 square feet per Schedule 151.1004 of the Montgomery Zoning Code.

The rear lot is a landlocked parcel and does not access to public right of way. Therefore, this lot is not buildable.

2. The front lot has a width of 112' at the right of way which exceeds the 80' requirement for the 'A' District. The applicant is proposing a new lot width of 96.75' for the front lot and a 20' panhandle for the rear lot. Both proposed widths meet Zoning Code requirements.
3. Section 151.1004(D) outlines the Exceptions for Panhandle Lots, including the following:
 - (1) The minimum lot frontage required for panhandle lots shall be 20 feet measured at the public street right-of-way which provides access to the lot.
 - (2) Panhandle lots can only be created, however, when the lot area is 150% of the permitted minimum lot area of the district or 100% of the area of the front lot of which the panhandle lot is located immediately behind, whichever is larger in size. If the lot is located behind more than one lot, the new lot must be 150% of the permitted minimum area or 100% of the area of all the lot area that it is located behind, whichever is greater, provided, however that no lot need exceed 200% of the permitted minimum area.

- (3) In calculating the area of the panhandle lot for purposes of determining whether it meets the minimum area requirements, if the panhandle or portion of the lot providing access to the street right of way is less than 35 feet in width at any point of the panhandle, the area of the panhandle shall not be included in the lot area calculations.
4. A single-family home was previously demolished in 1993 at this address.
5. Both properties are within the Heritage Overlay District and part of the original plat of the City.

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 front lot is legal non-conforming in size and the rear lot is currently landlocked.

2. *Will the property yield a reasonable rate of return without granting the variances?*

The rear lot may not yield a reasonable rate of return as there is no access to public right of way and therefore, not buildable. A panhandle out to Cooper Road would be required in order to permit access and allow for a buildable lot.

3. *Are the variances substantial/Are they the minimum necessary?*

The applicant has divided the lots in such a way that each lot contains a 10% reduction in lot size. While the reduction in size is significant, Staff believes it is the minimum necessary to divide the property into two single family lots with one being a panhandle.

As per Section 151.1004(D)(3), the panhandle portion of the lot cannot be calculated in the total lot square footage. The applicant has shown

that if the panhandle area were calculated in the total, the lot would be 30,811 square feet in size and meet the size requirement.

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

The character of the neighborhood would not be altered by granting the lot size variances. The properties are situated along a stretch of Cooper Road where many lots are non-conforming in lot size and width, as much of this area was developed prior to the Montgomery Zoning Code.

There are two additional panhandle lots on the south side of Cooper Road, which are approximately 25,000 and 30,000 square feet in size. These two panhandle lots are immediately adjacent to the proposed panhandle lot.

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

Government services would not be affected.

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

The owners were not aware of the zoning restraint.

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

There are no special conditions as a result of the current owners. The applicant is seeking to modify the division of the existing lots to create two buildable lots.

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

The applicant does have the option to have the lots remain in their current configuration. However, the rear lot would not be buildable. Therefore, the lot would require public right of way access by means of a panhandle out to Cooper Road.

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

The intent of the lot size requirement is to allow for uniformity of single-family lots within the area and provide for a sufficient building envelope. The adjustment of the property line and creation of a panhandle will allow for two single family lots to be built upon, with a sufficient building envelope.

Staff is of the opinion that the spirit and intent behind the lot size requirement would be observed and substantial justice done, as many of the lots along Cooper Road are non-conforming in lot size, and there are existing panhandle lots adjacent to the new one being proposed which are similar in size.

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

Staff is not aware of any similar variance requests for a reduction in lot size in this area of the city. However, there are lots along this stretch of Cooper Road that do not meet the minimum 20,000 square foot requirement in the 'A' District. This property is unique, as it contains a landlocked parcel, and the applicant is not requesting an additional lot, but only to make an existing lot buildable. Therefore, Staff is of the opinion that granting the lot size variances would not confer on the applicant a special privilege.

Staff Comments and Recommendation

Staff believes the modification of property lines to create a panhandle to an existing landlocked parcel would not have a negative impact on surrounding properties. While the variances being requested are for a 10% reduction in lot size for both lots, this would not confer a special privilege, as many lots on Cooper Road are non-conforming in lot size. In addition, the proposed new panhandle lot would be adjacent to an existing panhandle lot located to the west.

The variances to allow a lot size of 17,790 square feet for the front lot and 26,985 square feet for the panhandle lot for property addressed 7957 Cooper Road can be justified based on criteria 1 - 10.



CITY OF

MONTGOMERY

A CHARMING PAST. A GLOWING FUTURE.

APPLICATION FORM

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

Project Address (Location): 7957 Cooper Road

Project Name (if applicable): Shiner Project

Auditors Parcel Number: 603-0004-0045-00 & 603-0004-0073-00

Gross Acres: 1.1203 Lots/Units 2 Commercial Square Footage none

Additional Information: _____

PROPERTY OWNER(S) Thomas J. & Sharon S. Hattersley Contact Tom

Address 7967 Cooper Road Phone: 513-259-5402

City Montgomery State Ohio Zip 45242-7330

E-mail address that@cinci.rr.com

APPLICANT Thomas J. & Sharon S. Hattersley Contact Tom

Address same Phone: _____

City _____ State _____ Zip _____

E-mail address _____

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

Property Owner Signature

Thomas J. Hattersley

ONLY

FOR DEPARTMENT USE

Print Name

Thomas J. Hattersley

Date 3 March 2021

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



CONSENT OF OWNER(S) TO INSPECT PREMISES

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

Re: Review Subject Site

Dear Members and Staff:

As owner(s) of the property located at 7957 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 *Thomas J. Hattersley*

Print Name Thomas J. Hattersley

Date 3 March 2021

Board of Zoning Appeals Members:

Mary Jo Byrnes

Doug King

Tom Molloy

Bob Saul

Steve Uckotter

Richard White

Peter Fossett

APPLICATION REQUIREMENT 5. Description of nature of variance requested.

Lot 45 at 7957 Cooper Road, a front lot, has been vacant since 1993 when its house and garage were demolished. Lot 45 is 736.35 square feet short of the 20,000 square foot front lot zoning requirement for building a home. (We acquired Lot 45 in 1993 from a realtor who had torn the existing house and garage down.)

1. A variance in order to build another home on the Lot 45 is requested.

Lot 73 at 7957 Cooper Road, a back lot, has had nothing more than an apparent chicken coop built on it, is landlocked, and is 462.75 square feet short of the 30,000 square foot back lot zoning requirement for building a home. (We acquired Lot 73 in 1989 out of an estate.)

2. A variance in order to permit the building of a home on the Lot 73 is requested.

Lot 45 must grant Lot 73 access to the street. While an easement by necessity would suffice under real estate law, Montgomery zoning requires a 20-foot-wide panhandle, as part of Lot 73, be created through Lot 45. Moreover, zoning requires ignoring the square footage of the panhandle in establishing the square footage of the remaining lots for zoning lot size requirements.

The zoning regulation's derogation of the panhandle's square footage from the overall acreage causes Lots 45 and 73 to be even smaller—on paper—albeit, of course, not in fact.

3. We request a variance to divide the post-panhandle square footage at a ratio equal to the ratio of the zoning square footage requirements for front lots to back lots, i.e., 20,000/30,000 or 40%/60%.

This calculation works as follows:

- The combined plat is 48,801 square feet.
- Subtracting the derogated panhandle of 3,826 square feet, the zoning-countable square footage remaining is 44,975.
- Dividing 44,975 40%/60% results in the front lot at 17,990 square feet and the back lot at 26,985 square feet.
- As a practical fact, the front lot will end up with a usable 21,816 square feet because of an easement to use the panhandle. And, the back lot will end up with an actual square footage of 30,811 when the panhandle is considered.



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 conditions that call for this variance are applicable to most of the land and structures in this A-Zoned District. The Montgomery Zoning Map shows at least a dozen undersized front lots near to Lot 45, including the adjacent lot at 7951 at about 14,000 square feet. The lot adjacent to the back lot at 7929 at about 24,000 square feet is smaller than the proposed post panhandle-subtracted Lot 73 and is allowed a panhandle only 15-foot wide. Thus, rather than peculiar circumstances, variances are the neighborhood norm.

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

No. Without a variance, the value of the property is approximately halved and only one home could be built at 7957 Cooper Road, despite having two readily buildable lots.

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

No. The variance is minimal. In actual usable square footage, the variance is only 462.75 square foot for the back lot and only 736.35 for the front lot.

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

No. The character of the neighborhood will be complemented. Vacant lots are not attractive in a neighborhood of any density. From the street, neighbors will see only one home and one driveway.

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

No. Adjacent and nearby back lots—as far as the applicant knows—have not posed any difficulty.



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

No. Considering the existence of a house at 7957 when we moved to 7967 in 1984 and the neighborhood lot sizes, we were surprised. Also, we assumed the feasibility of a typical easement by necessity for the back lot across the front lot to the street. Nonetheless, we completely understand the value of zoning in building a desirable residential neighborhood.

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

Yes. Special conditions for us are quite simple: our oldest daughter has had a house designed and is negotiating with builders to build that house on the front lot. The back lot will be transferred to our only other child at her request.

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

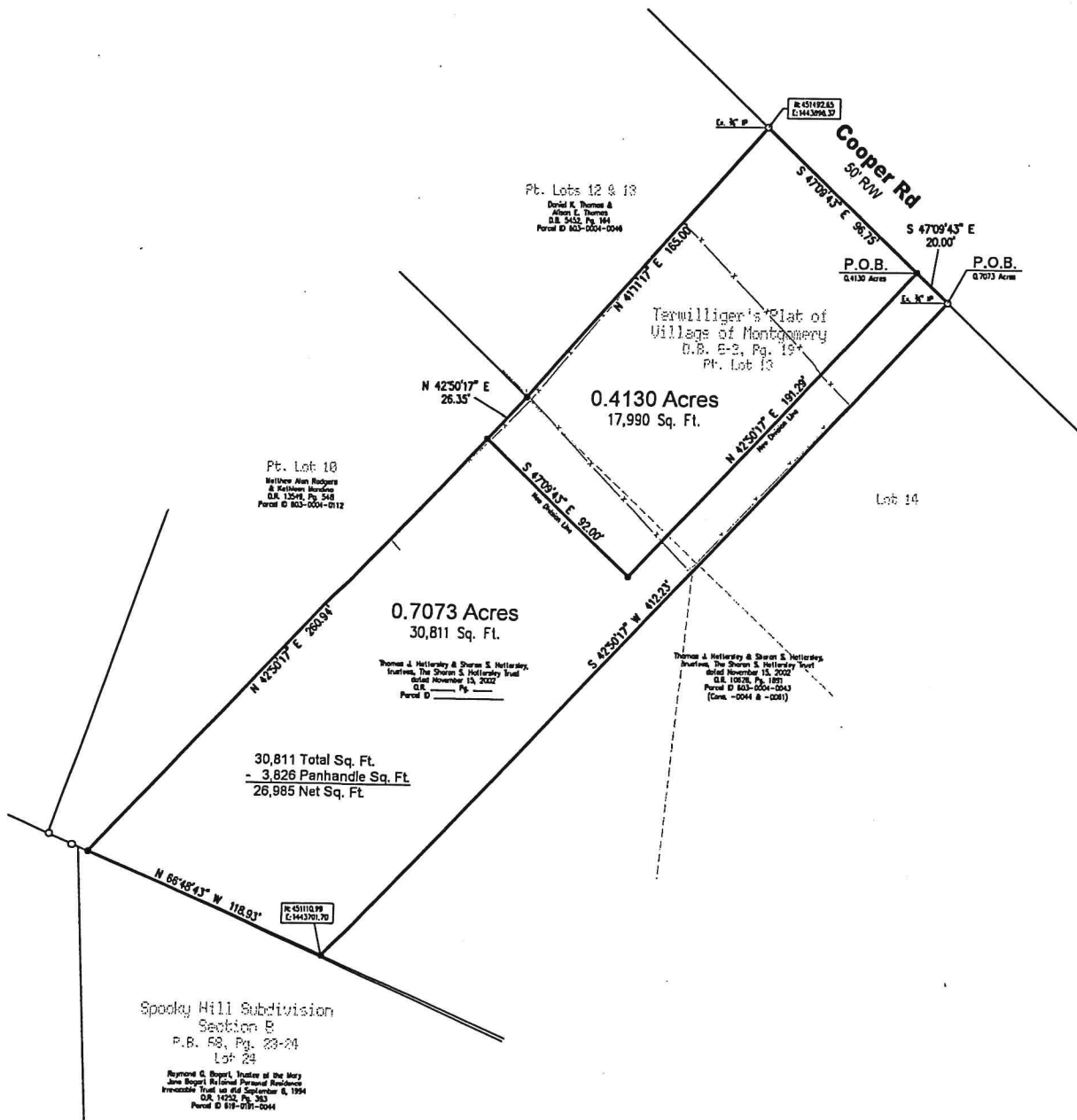
No. While it might appear on paper that 7967 ceding land to 7957 would be a solution, there are problems with that idea. First, the newest Montgomery Landmark, the Wooley-Hattersley Carriage House, is on the property line. Any ceded land would be a gerrymandered slice behind an out-building and not very useable. Also, it would undesirably move the back lot closer to 7975. Moreover, to the applicants' knowledge, no other non-conforming lot owner in the neighborhood has been required to go to the expense of acquiring adjacent land.

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

Yes. To all the world, these two lots have appeared as useable residential lots.
(We had always assumed that an easement by necessity would be adequate.)

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

No. This variance would confer an accommodation already granted to others.



Spooky Hill Subdivision
 Section 8
 P.B. 58, Pg. 23-24
 Lot 24
 Raymond G. Soper, Trustee of the Mary Jane Soper Trust
 D.R. 1622, Pg. 283
 Parcel D 817-017-0044

Thomas J. Hattersley & Sharon S. Hattersley, Trustees, The Sharon S. Hattersley Trust
 Dated November 13, 2002
 G.S. 10276, Pg. 193
 Parcel D 803-004-0043
 (Cons. -004 & -005)



Gerard J. Berding
 Gerard J. Berding, P.S. - 6880
 berding@berdingsurveying.com
 03/05/2021
 Date

OCCUPATION
 As Shown On Plat
 None

Cut-Up Plat
 Survey Type

Hattersley
 Cooper Rd.
 Job Name

Section 3 Town 4 E.R. 1
 City of Montgomery
 Hamilton County, Ohio
 Site Location

YTC | GJB | 1" = 30'
 Drawn By | Checked By | Drawing Scale

03/05/2021 | 20174
 Issue Date | Project Number

Berding Surveying
 GPS Surveying · 3D Laser Scanning
 741 Main Street | Millard, OH 45150 | www.berdingsurveying.com
 513.831.0761 Fax | 513.831.2505 Int
 Copyright © 2021 G. J. Berding Surveying, Inc. All rights reserved.

Description for: Hattersley

Location: Cooper Rd., 1.1203 Acre Consolidation

Situated in Section 3, Town 4, Entire Range 1, Village of Montgomery, Hamilton County, Ohio, and being more particularly described as follows:

BEGINNING at an existing $\frac{3}{4}$ " iron pin at the most northerly corner of Lot 14 of Terwilliger's Plat of Village of Montgomery as recorded in Deed Book E-2, Page 19 of the Hamilton County Recorder's Office, said point being in the southwest line of Cooper Road;

Thence along the northwest line of lands conveyed to Thomas J. & Sharon S. Hattersley, trustees, The Sharon S. Hattersley Trust in Official Record 10626, Page 1691, South $42^{\circ}50'17''$ West, 412.23 feet to a set iron pin in the north line of Lot 24 of Spooky Hill Subdivision Section B as recorded in Plat Book 58, Pages 23-24;

Thence with the north line of Lot 24 of said Spooky Hill Subdivision Section B, North $66^{\circ}48'43''$ West, 118.93 feet to a set iron pin at the southeast corner of a tract conveyed to Matthew Alan Rodgers & Kathleen Mondino in Official Record 13549, Page 548;

Thence with the southeast line of said Matthew Alan Rodgers & Kathleen Mondino, North $42^{\circ}50'17''$ East, 287.29 feet to a set iron pin at the southeast corner of a tract conveyed to Daniel K. Thomas and Alison E. Thomas as recorded in Deed Book 5452, Page 164, said tract being part of Lots 12 & 13 of aforesaid Terwilliger's Plat of Village of Montgomery;

Thence with the southeast line of said Daniel K. Thomas and Alison E. Thomas, North $41^{\circ}11'17''$ East, 165.00 feet to an existing $\frac{3}{4}$ " iron pin in the southwest line of aforesaid Cooper Road;

Thence with the southwest line of said Cooper Road, South $47^{\circ}09'43''$ East, 116.75 feet to the **POINT OF BEGINNING**.

CONTAINING 1.1203 ACRES and being subject to all legal easements and highways of record.



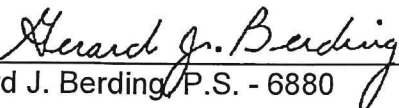
Description for: Hattersley
Location: Cooper Road, 1.1203 Acre Consolidation
Page 2

The above described tract being all of Hamilton County parcels 603-0004-0045 and 603-0004-0073 as conveyed to Thomas J. Hattersley & Sharon S. Hattersley, Trustees, The Sharon S. Hattersley Trust dated November 15, 2002 in Official Record 10614, Page 532 of the Hamilton County Recorder's Office.

The bearings are based on State Plane Coordinate System Ohio South Zone (NAD83).

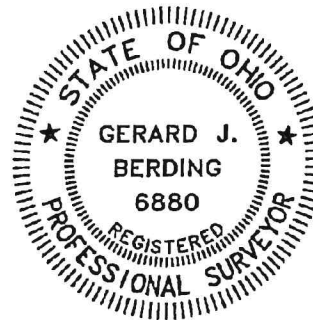
All iron pins set are 5/8" X 30" rebar with cap stamped "G.J. BERDING SURVEYING, INC".

Prepared by G.J. BERDING SURVEYING, INC. on January 7, 2021. Based on a Consolidation Plat prepared by G.J. BERDING SURVEYING, INC. on January 7, 2021.



Gerard J. Berding P.S. - 6880

January 7, 2021
Date



G.J. Berding Surveying, Inc.

741 Main Street • Milford, OH 45150 • 513 831 5505 tel • 513 831 6761 fax • www.berdingsurveying.com

Parcel ID

603-0004-0045-00

Address

7957 COOPER RD

Index Order

Parcel Number

Tax Year

2020 Payable 2021

Property Information

Tax District 211 - MONTGOMERY-SYCAMORE CSD		Images/Sketch
School District SYCAMORE CSD		
Appraisal Area 60301 - MONTGOMERY 01 Sales	Land Use 500 - RESIDENTIAL VACANT LAND	
Owner Name and Address HATTERSLEY THOMAS J TR & SHARON S TR 7967 COOPER RD CINCINNATI OH 45242 (call 946-4015 if incorrect)	Mailing Name and Address HATTERSLEY THOMAS J TR & SHARON S TR 7967 COOPER RD CINCINNATI OH 45242 (call 946-4800 if incorrect)	
Assessed Value 37,270	Effective Tax Rate 66.021458	Total Tax \$2,277.74
Property Description COOPER ST 112 X 165 PT LOT 13 N TERWILLIGERS		

Appraisal/Sales Summary	
Year Built	
Total Rooms	
# Bedrooms	
# Full Bathrooms	
# Half Bathrooms	
Last Transfer Date	8/1/2007
Last Sale Amount	\$0

Appraisal/Sales Summary	
Conveyance Number	
Deed Type	WE - Warranty Deed (EX)
Deed Number	132638
# of Parcels Sold	1
Acreage	0.415
Tax/Credit/Value Summary	
Board of Revision	No
Rental Registration	No
Homestead	No
Owner Occupancy Credit	No
Foreclosure	No
Special Assessments	No
Market Land Value	106,490
CAUV Value	0
Market Improvement Value	0
Market Total Value	106,490
TIF Value	0
Abated Value	0
Exempt Value	0
Taxes Paid	\$1,138.87
Tax as % of Total Value	2.263%

Notes

I Want To...

[Start a New Search](#) [Email the Auditor](#) [View the Online Help](#) [Auditor's Home](#)

View:

[Property Summary](#) [Appraisal Information](#) [Levy Information](#) [Transfer Value History](#) [Board of Revision](#) [Payment Detail](#) [Tax Distributions](#) [Images](#) [Special Assessment/Payoff](#) [Tax Lien Certificates](#) [CAGIS Online Maps](#) [Aerial Imagery](#) [Owner Names](#)

Print:

[Current Page](#) [Property Report](#)



Online Property Access

|< First << Prev Next >> Last >| [RETURN TO SEARCH LIST](#) Property 2 of 2

Parcel ID

603-0004-0073-00

Address

7957 COOPER RD

Index Order

Parcel Number

Tax Year

2020 Payable 2021

Property Information

Tax District 211 - MONTGOMERY-SYCAMORE CSD		Images/Sketch
School District SYCAMORE CSD		
Appraisal Area 60301 - MONTGOMERY 01 Sales	Land Use 500 - RESIDENTIAL VACANT LAND	
Owner Name and Address HATTERSLEY THOMAS J TR & SHARON S TR 7967 COOPER AVE CINCINNATI OH 45242 (call 946-4015 if incorrect)	Mailing Name and Address HATTERSLEY THOMAS J TR & SHARON S TR 7967 COOPER AVE CINCINNATI OH 45242 (call 946-4800 if incorrect)	
Assessed Value 23,530	Effective Tax Rate 66.021458	Total Tax \$1,438.02
Property Description REAR COOPER ST 0.69 AC R1- T4- S3 SW		

Appraisal/Sales Summary	
Year Built	
Total Rooms	
# Bedrooms	
# Full Bathrooms	

Appraisal/Sales Summary	
# Half Bathrooms	
Last Transfer Date	8/1/2007
Last Sale Amount	\$0
Conveyance Number	
Deed Type	WE - Warranty Deed (EX)
Deed Number	132639
# of Parcels Sold	1
Acreage	0.679
Tax/Credit/Value Summary	
Board of Revision	No
Rental Registration	No
Homestead	No
Owner Occupancy Credit	No
Foreclosure	No
Special Assessments	No
Market Land Value	67,220
CAUV Value	0
Market Improvement Value	0
Market Total Value	67,220
TIF Value	0
Abated Value	0
Exempt Value	0
Taxes Paid	\$719.01
Tax as % of Total Value	2.263%

Notes

Description for: Hattersley

Location: Cooper Road, 0.4130 Acres

Situated in Section 3, Town 4, Entire Range 1, City of Montgomery, Hamilton County, Ohio, and being more particularly described as follows:

COMMENCING at an existing $\frac{3}{4}$ " iron pin at the most northerly corner of Lot 14 of Terwilliger's Plat of Village of Montgomery as recorded in Deed Book E-2, Page 19 of the Hamilton County Recorder's Office, said point being in the southwest line of Cooper Road;

Thence along the southwest line of said Cooper Road, North $47^{\circ}09'43''$ West, 20.00 feet to a set iron pin and the **POINT OF BEGINNING**;

Thence along new division lines, South $42^{\circ}50'17''$ West, 191.29 feet to a set iron pin **AND** North $47^{\circ}09'43''$ West, 92.00 feet to a set iron pin in the southeast line of a tract conveyed to Matthew Alan Rodgers & Kathleen Mondino in Official Record 13549, Page 548;

Thence along the southeast line of said Matthew Alan Rodgers & Kathleen Mondino, North $42^{\circ}50'17''$ East, 26.35 feet to a set iron pin at the southeast corner of a tract conveyed to Daniel K. Thomas and Alison E. Thomas as recorded in Deed Book 5452, Page 164, said tract being part of Lots 12 & 13 of aforesaid Terwilliger's Plat of Village of Montgomery;

Thence along the southeast line of said Daniel K. Thomas and Alison E. Thomas, North $41^{\circ}11'17''$ East, 165.00 feet to an existing $\frac{3}{4}$ " iron pin in the southwest line of aforesaid Cooper Road;

Thence along the southwest line of said Cooper Road, South $47^{\circ}09'43''$ East, 96.75 feet to the **POINT OF BEGINNING**.

CONTAINING 0.4130 ACRES and being subject to all legal easements and highways of record.



Description for: Hattersley
Location: Cooper Road, 0.4130 Acres
Page 2

The above described tract being part of Hamilton County Parcel _____ as conveyed to Thomas J. Hattersley & Sharon S. Hattersley, Trustees, The Sharon S. Hattersley Trust dated November 15, 2002 in Official Record _____, Page _____ of the Hamilton County Recorder's Office.

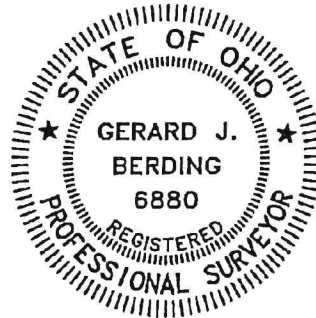
The bearings are based on State Plane Coordinate System Ohio South Zone (NAD83).

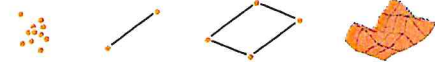
All iron pins set are 5/8" X 30" rebar with cap stamped "G.J. BERDING SURVEYING, INC".

Prepared by G.J. BERDING SURVEYING, INC. on March 5, 2021. Based on a Cut-Up Plat prepared by G.J. BERDING SURVEYING, INC. on March 5, 2021.

Gerard J. Berding
Gerard J. Berding, P.S. - 6880

March 5, 2021
Date





Description for: Hattersley
Location: Cooper Road, 0.7073 Acres

Situated in Section 3, Town 4, Entire Range 1, City of Montgomery, Hamilton County, Ohio, and being more particularly described as follows:

BEGINNING at an existing $\frac{3}{4}$ " iron pin at the most northerly corner of Lot 14 of Terwilliger's Plat of Village of Montgomery as recorded in Deed Book E-2, Page 19 of the Hamilton County Recorder's Office, said point being in the southwest line of Cooper Road;

Thence along the northwest line of lands conveyed to Thomas J. & Sharon S. Hattersley, trustees, The Sharon S. Hattersley Trust in Official Record 10626, Page 1691, South $42^{\circ}50'17''$ West, 412.23 feet to a set iron pin in the north line of Lot 24 of Spooky Hill Subdivision Section B as recorded in Plat Book 58, Pages 23-24;

Thence with the north line of Lot 24 of said Spooky Hill Subdivision Section B, North $66^{\circ}48'43''$ West, 118.93 feet to a set iron pin at the southeast corner of a tract conveyed to Matthew Alan Rodgers & Kathleen Mondino in Official Record 13549, Page 548;

Thence with the southeast line of said Matthew Alan Rodgers & Kathleen Mondino, North $42^{\circ}50'17''$ East, 260.94 feet to a set iron pin;

Thence along new division lines, South $47^{\circ}09'43''$ East, 92.00 feet to a set iron pin **AND** North $42^{\circ}50'17''$ East, 191.29 feet to a set iron pin in the southwest line of aforesaid Cooper Road;

Thence with the southwest line of said Cooper Road, South $47^{\circ}09'43''$ East, 20.00 feet to the **POINT OF BEGINNING**.

CONTAINING 0.7073 ACRES and being subject to all legal easements and highways of record.



Description for: Hattersley
Location: Cooper Road, 0.7073 Acres
Page 2

The above described tract being part of Hamilton County Parcel _____ as conveyed to Thomas J. Hattersley & Sharon S. Hattersley, Trustees, The Sharon S. Hattersley Trust dated November 15, 2002 in Official Record _____, Page _____ of the Hamilton County Recorder's Office.

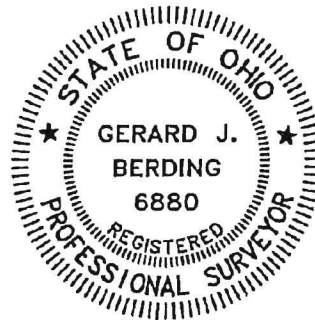
The bearings are based on State Plane Coordinate System Ohio South Zone (NAD83).

All iron pins set are 5/8" X 30" rebar with cap stamped "G.J. BERDING SURVEYING, INC".

Prepared by G.J. BERDING SURVEYING, INC. on March 5, 2021. Based on a Cut-Up Plat prepared by G.J. BERDING SURVEYING, INC. on March 5, 2021.

Gerard J. Berding
Gerard J. Berding, P.S. - 6880

March 5, 2021
Date



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 741 Main Street | Mount Airy, OH 43101 | www.berdingsurveying.com
 513.831.5505

Berding Surveying
 GPS Surveying • 3D Laser Scanning



Project Number: 103/05/2021 | 20174
 Date: 03/05/2021

YTC: 1 GIB 1" = 30'
 Drawing Scale: 1" = 30'

Address: Section 3 Town 4 E, R. 1
 City of Montgomery
 Hamilton County, Ohio
 Hatterley
 Cooper Rd.
 Survey 12A

Notes: Occupation
 As Shown On Plat

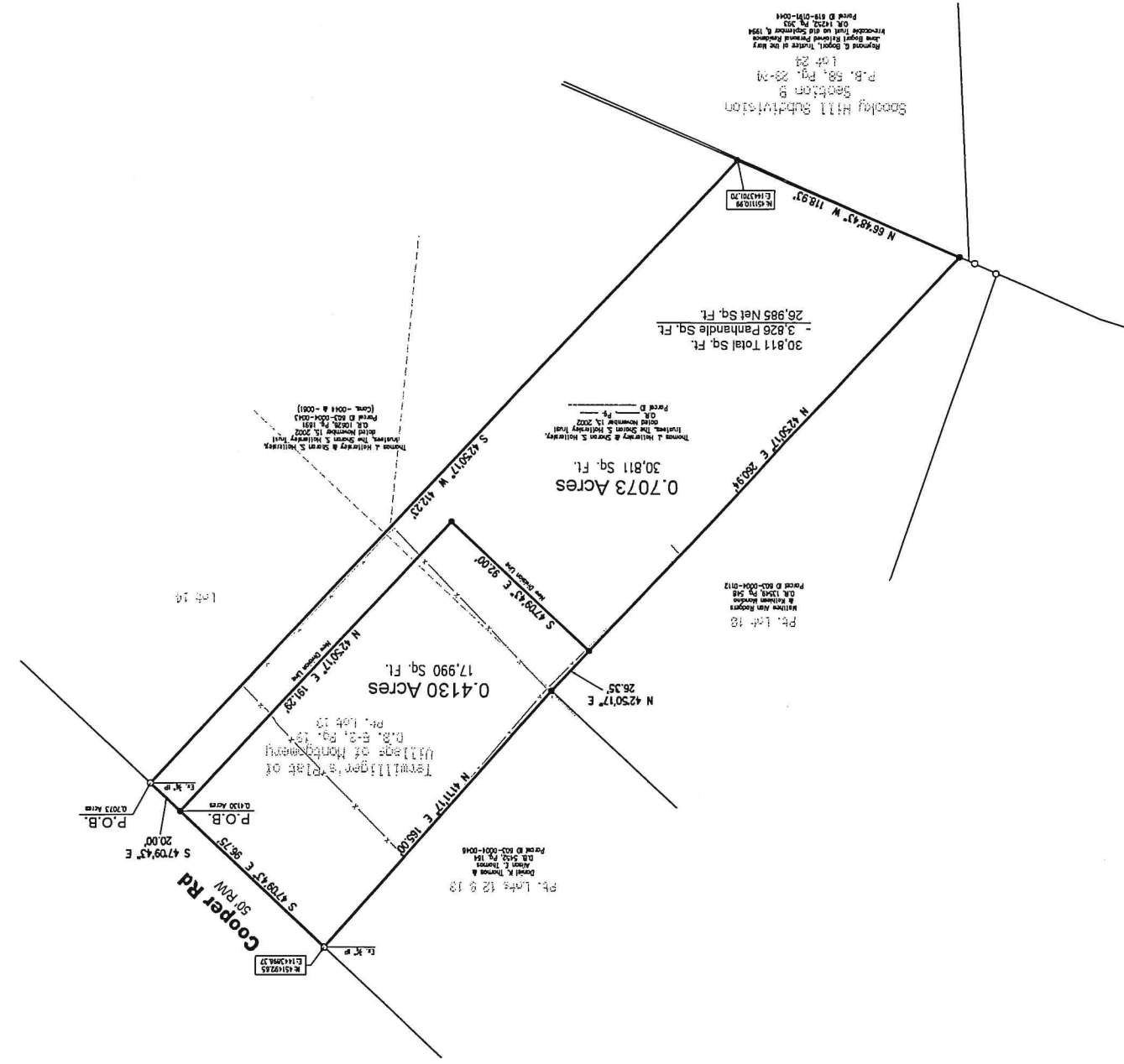
berdingberdingsurveying.com
 Gerald A. Berding, P.S. - 6800
 Date: 03/05/2021
 Gerald A. Berding



Mounting Legend:
 - Indicate existing iron pin, unless noted otherwise
 - Stake of record as shown herein

Survey Reference:
 Based on State Plane
 Coordinate System Ohio
 South Zone (NAD83)

LEGEND
 These standard symbols will be found in the drawings:
 --- PARCEL LINE
 --- FENCE



Course Report - 0.7073 Acres
 Area: 30811 Sq. Ft. 0.7073 Acres
 Course Precision: 1 in 132516 Total Distance: 1092.38
 Closure Error Distance: 0.0081 Error Bearing: 5.125001" W

Point	Bearing	Distance	Northing	Easting
1	S 47°09'43" E	210.00	451412.27	1443981.58
2	N 42°50'17" E	191.29	451426.87	1443987.32
3	S 47°09'43" E	92.00	451266.60	1443972.26
4	N 42°50'17" E	260.94	451349.15	1443769.80
5	N 66°48'43" W	118.93	451157.81	1443922.38
6	S 42°50'17" W	412.23	451110.99	1443701.70
7	N 42°50'17" E	191.29	451426.87	1443987.32
8	S 47°09'43" E	210.00	451412.27	1443981.58

Course Report - 0.4130 Acres
 Area: 17990 Sq. Ft. 0.4130 Acres
 Course Precision: 1 in 674311 Total Distance: 571.39
 Closure Error Distance: 0.0085 Error Bearing: N 49°37'45" E

Point	Bearing	Distance	Northing	Easting
1	S 47°09'43" E	96.75	451426.87	1443987.32
2	N 41°11'17" E	165.00	451492.65	1443986.37
3	N 42°50'17" E	28.35	451368.48	1443787.72
4	N 47°09'43" E	92.00	451349.15	1443769.80
5	S 42°50'17" W	191.29	451266.60	1443972.26
6	N 42°50'17" E	191.29	451426.87	1443987.32
7	S 47°09'43" E	96.75	451426.87	1443987.32

CITY OF MONTGOMERY
BOARD OF ZONING APPEALS
April 27, 2021

APPLICANT: MPH Brewing
7880 Remington Road
Montgomery, Ohio 45242

PROPERTY OWNER: Sycamore Land Owners LLC
7880 Remington Road
Montgomery, Ohio 45242

VICINITY MAP:



NATURE OR REQUEST:

The applicant is requesting approval of a variance to allow the number of outdoor seats to be 75% of the total number of seats inside the restaurant where 30% is the maximum permitted per Section 151.1210(c) of the Zoning Code.

ZONING:

The property at 7880 Remington Road is zoned 'OM - Core' – Old Montgomery Core and is used for MPH Brewing. The property to the north is zoned 'OM - Core' and is used for CVS. The property to the south is zoned 'OM - Core' and used for Clarity House Bakery. The property to the west is zoned 'OM - Core' and used for Otmar Furniture. The properties to the east are zoned 'OM - Outer' and used for Montgomery Hill townhomes.

Findings:

1. The property is located in the Heritage District at the corner of Main Street and Remington Road.
2. The building sits higher than Main Street with a significant topography change from the building to Main Street. There is also a topography change from the building to Remington Road; however, not as significant as along Main Street.
3. The total number of indoor seats is 90 and the existing patio seats 27 under the current COVID restrictions. The applicant would like to add an additional four tables for a total of 40 seats on the existing patio when the COVID restrictions are lifted.
4. The applicant is also proposing to add a 600 square foot elevated deck on the east side of the building which would accommodate seven tables (28 seats).
5. The total proposed number of seats is 68 or 75% of the total indoor seats.
6. Outdoor dining is a permitted accessory use to an indoor restaurant in the General Business District when the number of outdoor seats is no greater than 30% of the number of seats inside the restaurant.
7. The increased number of seats would require 7 additional parking spaces, which would be met through a shared parking arrangement with Clarity Bakery and Tea Room at 9441 Main Street. This does not require a variance as shared parking arrangements in the OM District are considered by the Planning Commission per the Zoning Code.
8. The proposed location of the deck is in compliance with the setback regulations in the District.

Variance Considerations:

Section 150.2010 allows the Board of Zoning Appeals to grant 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 property is a corner lot with a significant topography change along Main Street. The existing building and parking lot also limit the location of additional improvements.

The property is also located in the Heritage District which is a mixed use district that encourages buildings to be located close to the street and activation of the public realm.

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

Staff believes that the property will yield a reasonable rate of return without granting the variance. However, the applicant has stated that additional outdoor seating is needed to be profitable due to the limited seating inside the building and to take advantage of the weather during the spring, summer and fall months.

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

The variance is substantial as the applicant is proposing to increase the amount of permitted outdoor seating to 75% of the indoor seating. While the amount of the variance is substantial, outdoor dining is permitted and encouraged in the District. Furthermore, the location of the proposed deck is in compliance the setback requirements established in the Code. The applicant has stated that the variance is the minimum necessary to accommodate the adequate amount of outdoor seating for the business.

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

The proposed use and deck are compatible with the building and outdoor dining is a use that is permitted and encouraged in the district. The applicant has stated that they chose the location to decrease the overall aesthetic impact to the street prominent street corner. While Staff agrees that the location would have the least aesthetic impact on the building and the street, there are some concerns with the location of the proposed deck due to a potential negative impact on the adjacent residential properties. This is a unique situation due to the topography along Main Street that would make outdoor dining in this location more visible than would be typical since the deck would be level with the second story of the townhomes in the Montgomery Hill Subdivision. There are existing mature trees along Main Street that would provide some visual

screening and the applicant has stated that they would keep lighting and noise levels to a minimum; however, the outdoor dining would be visible from the second story of the townhomes fronting on Main Street.

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 did not have knowledge 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 actions of the owner.

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

The applicant could add onto the building to create additional indoor seating; however, the location for an addition is limited due to the need for parking, the existing patio, and the topography of the site. The applicant has also stated that they believe additional outdoor dining is critical for the success of the business.

Staff believes there could also be a potential to add on to the existing patio bringing the outdoor dining closer to Remington Road and keeping it further from the surrounding residential. There is a topography change in this location; however, Staff believes some expansion of the patio is achievable.

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

Schedule 151.1210(c) clearly states that the number of seats permitted outdoors shall be no greater than 30% of the number of seats inside the restaurant. The regulation is relatively new and was added to the Zoning Code in 2010. Staff believes the intent of the regulation is to limit the intensity of outdoor dining and to protect surrounding properties from potential negative impacts. However, some amount of outdoor dining appropriate and common within the District and Staff believes it should be encouraged as it activates the pedestrian realm.

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 for percentage of outdoor dining. Granting the variance would not confer any special privilege regarding use.

Staff Comments and Recommendations

Staff believes the intent of the zoning regulation is to limit the intensity of outdoor dining and to protect surrounding properties from potential negative impacts. Some amount of outdoor dining is appropriate and common within the District and Staff believes it should be encouraged as it activates the pedestrian realm. Ideally, the applicant would be able to add onto the building to create additional indoor seating to reduce the amount of the variance; however, adding additional indoor seating to the building would be difficult due to the need to provide adequate parking, the existing patio, and the topography of the site. Therefore, Staff believes some amount of a variance may be justified due to the uniqueness of the lot and the location within a mixed-use area of the city.

While the location of the proposed deck is permitted, there are some concerns about the location due to the unique circumstance that the outdoor dining would line up with the second story windows of the adjacent townhomes. Staff believes an opportunity may exist to add on to the existing patio and create additional outdoor seating closer to Remington Road. This would push the outdoor seating further from existing residential while still providing the opportunity for additional seating. This option may not create as much outdoor dining as desired; however, would alleviate the potential negative visual impact on the surrounding residential.

Should the Board grant the variance, Staff would recommend the following conditions:

- The applicant shall comply with the City's Noise Ordinance;
- The use of amplified speakers on the deck shall be prohibited;
- Lighting shall be limited and low-intensity similar to the lighting on the existing patio.

Granting the variance to allow the number of outdoor seats to be 75% of the total number of seats inside the restaurant where 30% is the maximum permitted per Section 151.1210(c) of the Zoning Code would be justified by criteria #1, 5, 6, 7, & 8.



APPLICATION FORM

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

Project Address (Location): MPH Brewing, 7880 Remington Road

Project Name (if applicable): Deck

Auditors Parcel Number: _____

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

Additional Information: _____

PROPERTY OWNER(S) Sycamore Land Owners LLC Contact Steve Tosh

Address MPH Brewing, 7880 Remington Road Phone: 513 200 9586

City Montgomery State Ohio Zip 45242

E-mail address tosh@mphbrew

APPLICANT Same as Property Owner Contact _____

Address _____ Phone: _____

City _____ State _____ Zip _____

E-mail address _____

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

Property Owner Signature

Stephen J Tosh *FOR DEPARTMENT USE*

ONLY

Print Name

Steve Tosh

Date 4/8/2021

Meeting Date:	<u>4/27/21</u>
Total Fee:	<u>\$300</u>
Date Received:	<u>4/7/21</u>
Received By:	<u>JMT</u>



7880 Remington Road
Montgomery, OH 45242

April 8, 2021

To: City of Montgomery, Board of Zoning Appeals
Re: MPH Brewing, Variance Request Resulting from Proposed Outdoor Deck

Dear Ladies and Gentlemen:

On behalf of MPH Brewing, please find attached materials supporting our request for a zoning variance related to the building of a proposed deck on the east (Main Street) side of our building.

The building of the deck will result in two (2) elements for consideration by the Board: 1) an increase in allowable outdoor seating and 2) an increase in required parking.

Background and Purpose

MPH Brewing officially opened for business in May 2020 in the early days of the Covid pandemic. With committed funding from our investor group and lending partners in conjunction with disciplined day-to-day management, we are successfully navigating the most difficult period in the history of the retail and hospitality business. We are offering an enjoyable and award-winning customer experience while maintaining a commitment to Covid safety and a positive presence in the Main & Remington neighborhood. We look forward to continuing as a positive and valued member of the Montgomery business community.

As we've navigated these difficult times and analyzed our business results, it has become clear that achieving long-term viable financial results requires achieving significant revenues during the peak spring, summer and fall seasons. For a craft brewery, MPH Brewing does not have a huge indoor seating footprint – approximately 90 permitted seats. This means that to achieve the significant revenues we need during the peak months, we are reliant on outside seating, currently provided by our patio. And the patio is not large enough for our long-term needs, hence our deck proposal.

We have come to understand in the last few weeks that there is a seating regulation that permits outdoor seating at 30% of indoor seating, inferring for MPH Brewing with its 90 indoor seats, 27 outdoor seats. In the current Covid-configuration, that is our approximate patio seating today. However, as we plan for a post-Covid environment, **we will need additional seating on the existing patio and the addition of the seating from the proposed deck.**

Variance Request

We are requesting a **seating variance** to provide for outdoor seating of approximately 68 seats, 75% of our indoor seating. This would be achieved by permitting approximately 40 seats on the existing patio, through the addition of 4 tables there and the addition of the 600 sqft deck with 7 tables providing 28 seats. (Please see attached documents with photographs of the proposed deck location and our architect's design plan)

We are confident that the increase in seating will not materially impact the attractive nature of the MPH Brewing property or the surrounding neighborhood. The proposed deck will be along the Main Street side of the building, relatively high up from the street itself, and screened by the existing matured trees for both view and sound. In addition, the addition of 4 tables on the existing patio will not be a material change to the sightlines there.

Noise is not expected to be a problem with the increased seating. While occupancy of the patio has been limited by Covid, we have found that customers are generally engaged in quiet conversations, and the distance, elevation and tree line of the property relative to the townhouses across Main Street limits sound travel quite well. At some later date we may provide background music on the patio but it will be incidental to the customer experience and not a central theme. Lighting is not expected to be materially different than the low-light elements we have today. Our operating hours will not change with this change in seating.

We recognize that parking needs may increase from increased customer traffic. We are entering into a parking arrangement with the new Clarity House Bakery across the street (parking arrangement template attached to be signed in the coming week) to provide an additional 7 parking spaces. In addition, particularly during the warmer months, customers are regularly using the Montgomery Public Parking on Shelley Lane.

We appreciate the Board's consideration of this request and look forward to discussing it at the Board meeting later this month.

Respectfully,

Steve Tosh

Steve Tosh
Member
Montgomery Public House, LLC
Sycamore Land Owners, LLC



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 location of the proposed deck is on a sloping area with mature trees. The deck will be narrow enough so as to not impact the trees.

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

MPH Brewing does not have a large seating footprint. In order to achieve reasonable profitability, we need to expand our outdoor seating during the spring, summer and fall months.

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

We believe the deck is of a size, style and location that it will not materially change the attractive nature of the building and property.

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

We don't believe that the character of the neighborhood will be substantially altered and MPH Brewing will continue to be a positive and attractive complement to the Main&Remington neighborhood

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

We do not believe so.



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

At the time of purchase, we were not aware of the indoor-to-outdoor seating ratio; it was not an element
discussed or addressed in our original permit and building project in 2020.

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

We are addressing the additional parking requirements via a parking arrangement with Clarity House Bakery.

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

We do not believe so. We believe the deck is critical to our business success and is the most attractive and
reasonable solution for our business and customer needs.

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

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



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 MPH Brewing, 7880 Remington 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 Stephen J. Tosh

Print Name Stephen J. Tosh

Date 4/8/2021

Board of Zoning Appeals Members:

Mary Jo Byrnes

Tom Molloy

Bob Saul

Steve Uckotter

Richard White

Peter Fossett

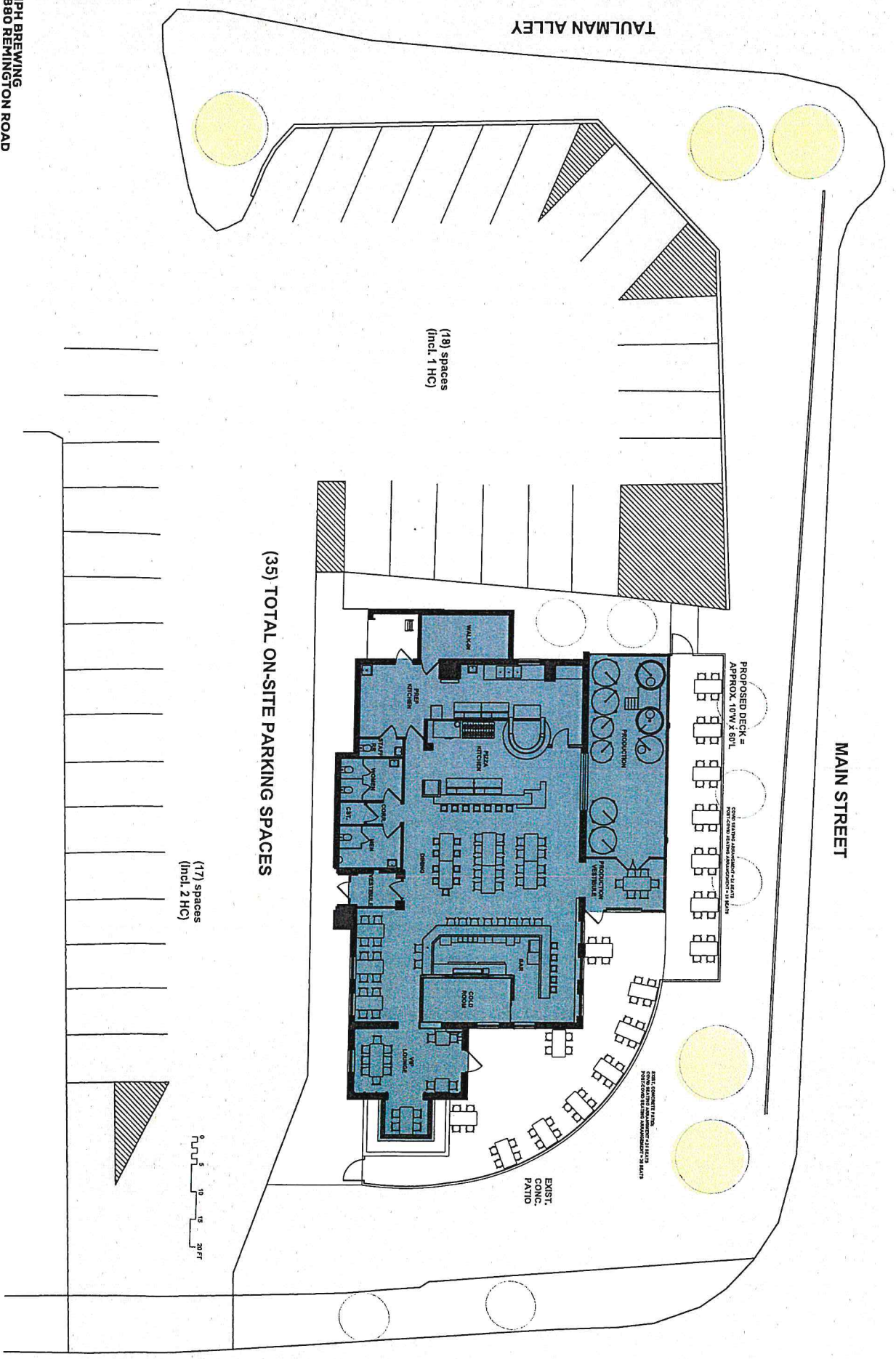
MPH BREWING
7880 REMINGTON ROAD

TAULMAN ALLEY

MAIN STREET

REMINGTON ROAD

SHP



(35) TOTAL ON-SITE PARKING SPACES

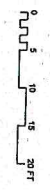
(18) spaces
(incl. 1 HC)

(17) spaces
(incl. 2 HC)

PROPOSED DECK =
APPROX. 10W X 80L

EXIST. PATIO
CONCRETE SLAB
CONCRETE SLAB
CONCRETE SLAB

EXIST. C&G PATIO



Deck Location, looking north up Main Street



Deck Location, looking south down Main Street





7880 Remington Road
Montgomery, OH 45242

March 8, 2021

Re: Parking Arrangement between MPH Brewing and Clarity House Bakery

- 7 parking spots
- Available after 3pm Tues-Sun; if an MPH special event outside of normal open hours, MPH will ask for Clarity House Bakery's permission first. Specific hours may be changed by mutual agreement of both parties.
- If Clarity House needs spots for special event, Clarity House Bakery provides MPH 7 days' notice
- MPH will pay to put signs at each spot that says "Parking for Clarity House Bakery and MPH Brewing Only"
- Clarity House Bakery and MPH will each hold the other party harmless for damage or injury that occurs on the Clarity House property
- Year-round access
- \$25 per month paid by MPH to Clarity House Bakery for each of March through October (\$200 per year)
- 60-days' notice of termination, no cause needed

Clarity House Bakery

MPH Brewing

Signed _____

Signed _____

Name _____

Name _____

Date _____

Date _____

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

*Due to the Stay at Home Order issued by Governor DeWine,
 this meeting was held as a teleconference on Zoom only (not in-person).*

March 23, 2021

<u>PRESENT</u>		
<u>GUESTS & RESIDENTS</u>		<u>STAFF</u>
Craig Margolis Vice Mayor Montgomery City Council 8270 Mellon Drive, 45242	Connie Pillich 9910 Forestglen Dr., 45242	Melissa Hays, Zoning and Code Compliance Officer Karen Bouldin, Secretary
Mr. Micah	Erin Pinger 7841 Campus Lane, 45242	<u>ALL BOARD MEMBERS PRESENT</u> Mary Jo Byrnes, Chairman Richard White, Vice-Chairman Peter Fossett Tom Molloy Bob Saul Steve Uckotter
Amy Phipps 7717 Westwind Lane, 45242	Jade Stewart 10005 Trail Lane, 45242	

Chairman Byrnes called the meeting to order at 7:06 p.m.

Roll Call

The roll was called and showed the following responses:

**PRESENT: Mr. Fossett, Mr. Molloy, Mr. Saul, Mr. Uckotter, Mr. White,
 Chairman Byrnes**

(6)

ABSENT:

(0)

Chairman Byrnes stated that tonight we will be conducting two public hearings. A public hearing is a collection of testimony from city staff, the applicants, and anyone wishing to comment on the case. All discussion by the Board of Zoning Appeals and all decisions will take place in 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 comment during this portion of the meeting, unless clarification is needed by a Board member. Decisions may be appealed by anyone, to the Hamilton County Court of Common Pleas, under the procedures established by that Court.

Chairman Byrnes swore in everyone planning to speak.

Guests and Residents

Chairman Byrnes asked if there were any guests or residents who wished to speak about items that were not on the agenda. There were not.

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Board of Zoning Appeals Meeting

March 23, 2021

34 **New Business (1)**

35 *A request for a variance from Amy Phipps, 7717 Westwind Lane, Montgomery, OH 45242, to*
36 *allow the use of the rear yard and existing shed/greenhouse for a home occupation of flower*
37 *cultivation, with all sales off-premise. Section 151.1010(D) requires storage of equipment and*
38 *supplies in conjunction with a home occupation to be conducted entirely within the dwelling*
39 *unit and not be located within any accessory building or garage.*

40

41 **Staff Report**

42 Ms. Hays reviewed the Staff Report dated March 23, 2021, "Application for Variance: Amy
43 Phipps".

44

45 Mr. Molloy asked if the applicant had an occupation permit yet. Ms. Hays stated that Ms. Phipps
46 did not have a home occupation permit. She had applied, but at the time, the use was determined
47 to be non-compliant with the current regulation.

48

49 Mr. Molloy asked who issued that permit. Staff stated that these permits were issued by the City,
50 through Community Development (Ms. Hays' office).

51

52 Mr. Molloy asked if the regulation prohibited the sale of anything from the home. Ms. Hays
53 stated that it allows people (customers) to come to and from your home, but the merchandise that
54 is sold from the premises shall be produced on the premises. Ms. Hays explained that the issue,
55 in this case, is that the home occupation is not conducted entirely within the home; the items
56 being produced are actually outside.

57

58 Mr. Molloy asked if we granted the variance to allow the use of the shed in conjunction with the
59 home occupation, would Ms. Phipps be able to sell the flowers from her home. Ms. Hays stated
60 that her position was that on-site sales not be permitted, because of the traffic increase.

61

62 Mr. Molloy stated that other people sell items from their home, like tax preparation, computer
63 repair, and all kinds of services that would attract traffic; he didn't understand why there was a
64 concern about cars, in this case.

65

66 Ms. Hays stated that the applicant's initial intent was to have on-premise sales via a small stand
67 in the front, and allow people to come to and from. After discussing this idea with Planning
68 Commission, the Commission did not support the idea of having on-site sales. Ms. Hays
69 explained that there is a specific number for traffic generated in the Home Occupation section.
70 She read this: Traffic generated by Home Occupation shall not exceed the average daily volume
71 normally expected for residents, which for the purpose of the Section, equals up to 10 round-trips
72 per day.

73

74 Mr. Molloy felt that this was a gray area, and did not understand why she was not permitted to
75 sell from her property, but since the Planning Commission spoke to that, he would abide by their
76 thoughts. Ms. Hays also pointed out that this was just a suggested condition, and did not have to
77 be accepted.

78

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Board of Zoning Appeals Meeting

March 23, 2021

79 Mr. White asked for clarity on this variance, and questioned if they had authority to over-ride
80 this. Ms. Hays stated that the Board of Zoning Appeals did have authority to rule on this request,
81 because the applicant was requesting a variance from the Home Occupation regulation, itself.
82 Chairman Byrnes understood that this was an unusual request, as opposed to those that they
83 typically receive. Typically, they were for side-yard setbacks, etc.

84
85 Mr. Molloy gave more explanation regarding the variance, noting that it was to specifically allow
86 the shed and the greenhouse to be part of the Home Occupancy, because the code did not allow
87 other structures on your property to be included in Home Occupancy – it must be done entirely
88 in the home dwelling. Ms. Hays confirmed this, stating an additional piece: that the growth of
89 the flowers that she is cutting to sell – she is actually using her land to produce the item that she
90 is selling. She stated that the variance was for those two things, and they were addressed in
91 Section (D) of the Code.

92
93 Chairman Byrnes asked if the customers could come and just pick-up the flowers (like curb-
94 service), instead of coming to an actual structure where they were sold out of. There was more
95 discussion about alternative ways to purchase flowers from Ms. Phipps.

96
97 Mr. Fossett pointed out: if Ms. Phipps were using her green house to store cultivation tools and if
98 she devoted her entire backyard to growing flowers, she wouldn't need any kind of variance, if
99 she weren't interested in selling these flowers. Ms. Hays confirmed. The sale of the flowers was
100 the big difference here.

101
102 Mr. Saul asked if there were any regulations about the height of the flowers. Ms. Hays stated
103 that weeds are only permitted to grow up to 6 inches, but flowers had no restrictions in height.

104
105 Chairman Byrnes asked if there were any more questions from the Board. There were none.

106
107 Chairman Byrnes asked if the applicant wished to speak.

108
109 **Amy Phipps, 7717 Westwind Lane, Montgomery, OH 45242** stated that she was a long-time
110 resident of Montgomery, and a gardener. She liked the theory that a customer could call her to
111 order/buy flowers, and then come and pick them up from her.

112
113 Mr. Fossett asked Ms. Phipps if she would be using fertilizer amounts beyond what she would
114 normally use, if she were just growing the flowers for her own purposes. Ms. Phipps stated she
115 would not; she followed organic practices, and used essential oils and organic applications.
116 She does not use pesticides, even though it is permitted.

117
118 Mr. Molloy asked how long the applicant had lived in her home. Ms. Phipps stated that she has
119 been in the home for 26 years. He asked how long she has been growing flowers, with the shed
120 and greenhouse. Ms. Phipps stated that she has had a garden for 26 years, and just built the shed
121 last March. Her idea was that this could be a retirement business.

122

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Board of Zoning Appeals Meeting

March 23, 2021

123 Ms. Phipps stated that she had taken a six-week course this year, learning irrigation, marketing
124 and selling flowers. She stated that last year, she experimented with her ability to grow specialty
125 cut flowers on her property, with great success. She only has so much sunlight, so is not
126 considering expanding. She is only growing on 3,000 square feet (out of 23,000) because there
127 is not enough sunlight.

128
129 This year, she did not think she would be able to get into the Montgomery Farmer's Market,
130 because there were already vendors. She will look into other Farmer's Markets. She also would
131 like to sell via a bouquet subscription, where you subscribe to so many (like 10) bouquets per
132 season, and you would receive a bouquet every other week from her, from her yard. She would
133 like to have a porch pick-up, or some kind of arrangement for that service. She had lots of
134 thoughts about selling – perhaps a pick-your-own day. Everything she plans to sell will be
135 grown on her property.

136
137 Mr. Uckotter stated that he looked at her shed on Saturday, and her garage, and he noticed that
138 she had a surprisingly small amount of equipment and supplies on hand; very neat and clean.

139
140 Chairman Byrnes asked if there were any more questions for the applicant, from the Board.
141 There were none.

142
143 Chairman Byrnes asked if there were any guests or residents who wished to speak.
144 There were not.

145
146 **Adjournment**

147 Mr. Saul moved to close the public hearing.

148 Mr. Uckotter seconded the motion.

149 The public hearing adjourned at 7:33p.m.

150
151 Chairman Byrnes opened the business session at 7:33p.m.

152
153 **Business Session (1)**

154 *A request for a variance from Amy Phipps, 7717 Westwind Lane, Montgomery, OH 45242, to*
155 *allow the use of the rear yard and existing shed/greenhouse for a home occupation of flower*
156 *cultivation, with all sales off-premise. Section 151.1010(D) requires storage of equipment and*
157 *supplies in conjunction with a home occupation to be conducted entirely within the dwelling*
158 *unit and not be located within any accessory building or garage.*

159
160 There was no discussion. All Board members were in agreement.

161
162 Chairman Byrnes pointed out that there was one letter received from a property owner on
163 Pfeiffer Road, who was opposed to this application. She did not believe his issues of opposition
164 existed. Mr. Uckotter stated that the property was 3 yards over, to the northwest, and did not
165 believe that the person would be in line to smell the fertilizer or chemicals, as stated.

166

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Board of Zoning Appeals Meeting

March 23, 2021

167 ***Mr. Molloy moved to approve the request for a variance from Amy Phipps, 7717 Westwind***
168 ***Lane, Montgomery, OH 45242, to allow the use of an existing shed/greenhouse for a Home***
169 ***Occupation of flower cultivation, where the City of Montgomery Zoning Code Section***
170 ***151.1010(D) requires storage of equipment and supplies in conjunction with a Home***
171 ***Occupation to be conducted entirely within the dwelling unit and not be located within any***
172 ***accessory building or garage, as described in the City of Montgomery Staff Report dated***
173 ***March 23, 2021, with the following conditions:***

- 174
- 175 ***1) All equipment and materials be stored within the shed/greenhouse when not in use.***
 - 176
 - 177 ***2) Any fertilizer and/or chemicals used are to be those typically applied to residential***
178 ***properties. No industrial or commercial fertilization techniques are permitted.***
 - 179
 - 180 ***3) The sale of flowers will be conducted entirely off-site. No on-premise sale of***
181 ***flowers is permitted.***
- 182

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

185

186 ***Mr. Saul seconded the motion.***

187

188 ***Mr. Fossett asked if he were growing flowers in his backyard, if he was allowed to leave any of***
189 ***his garden equipment outside, in view of his neighbors, such as a rototiller, or rakes. Is it a***
190 ***requirement to put all of those things away (in a garage), that he uses for his recreational***
191 ***backyard garden? Ms. Hays stated that generally, this would not be a requirement; however,***
192 ***if these items lingered outside for a lengthy time, and became more of a nuisance (as in***
193 ***deteriorating, or housing animals underneath them), then the City would consider it a***
194 ***violation. However, they do not allow material to be left out – it must be stored.***

195

196 ***The roll was called and showed the following vote:***

197

198 ***AYE: Mr. Fossett, Mr. Uckotter, Mr. Molloy, Mr. White, Mr. Saul, Chairman Byrnes (6)***

199 ***NAY: (0)***

200 ***ABSENT: (0)***

201 ***ABSTAINED: (0)***

202

203 ***This motion is approved.***

204

205 ***Ms. Phipps asked for guidance on how she might move forward to obtain permission to sell the***
206 ***flowers on-site. Chairman Byrnes stated that she should discuss that with Ms. Hays, and that***
207 ***could not be deliberated at this time, in connection with her application.***

208

209 ***Ms. Hays stated that staff was currently researching agricultural uses and horticultural uses of***
210 ***residential lots. She thought these may be brought to the Planning Commission for a future text***
211 ***amendments, as well.***

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Board of Zoning Appeals Meeting

March 23, 2021

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Adjournment

Mr. Saul moved to close the business session.

Mr. Uckotter seconded the motion.

The business session adjourned at 7:40p.m.

Chairman Byrnes opened the public hearing at 7:40pm.

New Business (2)

A request for a variance from Steven Matthew and Erin Pinger, 7841 Campus Lane, Montgomery, Ohio 45242 to allow an eastern side yard setback of 8.14 feet and a western side yard setback of 9.6 feet, where 15 feet is the minimum distance required, per Schedule 151.1005 of the Montgomery Zoning Code, for a two-story addition, with a depth of 17.5 feet, to an existing non-confirming structure.

Staff Update

Ms. Hays reviewed the Staff Report dated March 23, 2021, "Application for Variance: Steven Matthew and Erin Pinger". Ms. Hays also noted that this property had an existing variance that was granted on January 27, 2015 for a zero-foot setback, for the entire length of the driveway.

Mr. Molloy stated that the architectural drawings were all dated for 2020, and revised in 2021; however the plot plan (which showed all of the setbacks, etc.) had a date of October 13, 2014. He asked if there was any newer information. Ms. Hays explained that the original survey was conducted in 2014, and she pointed out the location of the revision date shown on the drawing, of March 1, 2021.

Chairman Byrnes asked if there were any other questions from the Board. There were none. She asked if the applicant wished to speak.

Erin Pinger, 7841 Campus Lane, Montgomery, Ohio 45242 stated that the reason they chose this layout was to maintain privacy for their home, and their neighbor's homes. She pointed out that some of her neighbor's backyards butted up to her backyard. With this home plan, all of the larger windows will be on the backside of the house, looking at her own property, and the windows on the sides of the home (the right or left elevation) are transom height windows, which would allow everyone around them to have their own privacy. She noted that if they didn't apply for this variance, they would need to go out further into the yard, and they didn't want to build a dark addition with no light coming into it.

Mr. Saul noted that the variances requested were not any further on the sides, than they were, currently; they were basically the same. Ms. Pinger confirmed that the new space was within the width of the existing footprint.

Mr. Molloy referred to the drawings -- the top level -- the expansion, and asked if it would be removed, to accommodate the expansion/dormer in the back. She stated that it would not be

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Board of Zoning Appeals Meeting

March 23, 2021

256 removed, that it was new construction, a part of the new plan. Ms. Pinger explained that the old
257 was the brick, and the new was the siding.

258
259 Chairman Byrnes asked if there were any more questions from the Board. There were none.
260 She asked if any guests or residents had comments. There were none.

261

Adjournment

262 Mr. White moved to close the public hearing.

263 Mr. Molloy seconded the motion.

264 The public hearing adjourned at 7:54pm.

265 The business session was called to order.

266

Business Session (2)

267
268 ***A request for a variance from Steven Matthew and Erin Pinger, 7841 Campus Lane,***
269 ***Montgomery, Ohio 45242 to allow an eastern side yard setback of 8.14 feet and a western***
270 ***side yard setback of 9.6 feet, where 15 feet is the minimum distance required, per***
271 ***Schedule 151.1005 of the Montgomery Zoning Code, for a two-story addition, with a depth***
272 ***of 17.5 feet , to an existing non-confirming structure.***

273

274
275 Mr. White felt this was a good arrangement. He liked the fact that they made it slightly less wide
276 than the existing home, and made good use of what they had – not a lot of land area.

277

278 Mr. Saul concurred.

279

280 Mr. Molloy agreed, noting that it would be nice if they could correct some of the existing non-
281 conformities, but he understood the practical difficulties with the land and the house.

282

283 Mr. White felt that they would probably lose the big tree in the back yard.

284

285 There were no more comments from the Board.

286

287 ***Mr. Molloy moved to approve the request from Steven Matthew and Erin Pinger,***
288 ***7841 Campus Lane, Montgomery, Ohio 45242 to allow for an eastern side yard setback of 8.14***
289 ***feet and a western side yard setback of 9.6 feet, where side yard setbacks of 15 feet are***
290 ***required per Section 151.1005 of the City of Montgomery Zoning Code as described in the***
291 ***City of Montgomery Staff Report dated March 23, 2021.***

292

293 ***This approval is in accordance with the survey/plot plan dated March 1, 2021.***

294

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

297

298 ***Mr. Saul seconded the motion.***

299

300

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Board of Zoning Appeals Meeting

March 23, 2021

301 ***The roll was called and showed the following vote:***

302

303 ***AYE: Mr. White, Mr. Molloy, Mr. Uckotter, Mr. Fossett, Mr. Saul, Chairman Byrnes*** (6)

304 ***NAY:*** (0)

305 ***ABSENT:*** (0)

306 ***ABSTAINED:*** (0)

307

308 ***This motion is approved.***

309

Adjournment

311 Mr. Saul moved to close the business session.

312 Mr. White seconded the motion.

313 The business session adjourned at 7:57p.m.

314

315 Chairman Byrnes opened the public hearing at 7:57pm.

316

Other Business

318 Mr. White asked if there had been any movement, regarding the discrepancies disapproved last month, with the Orchard Trail application. Ms. Hays stated that they were in the process.

319 She was working with one of the property owners and the landscaper to come up with a plan that allowed them to still have a patio, but remain within the 10 foot setback.

322

323 She will be sending another certified letter to the other applicant.

324

325 Mr. Uckotter noticed that King Dental had moved out of their old offices across from the hospital, and had opened their new offices across from McDonalds. He recalled a number of variances being granted on that property, and asked if they have expired, or if they would still apply to a future owner. Ms. Hays did not recall the variances granted, as it had been a number of years ago. There was discussion, and members thought there had been a variance granted for front parking, and possibly an addition. Ms. Hays would look into this matter.

331

332 Mr. Saul announced a new council member on board for City Council: Ron Messer.

333

Minutes

335 Mr. White moved to approve the minutes of February 23, 2021, as written.

336 Mr. Molloy seconded the motion.

337 The Board unanimously approved the minutes.

338

339

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Board of Zoning Appeals Meeting

March 23, 2021

340 **Adjournment**

341 Mr. Saul moved to adjourn. Mr. White seconded the motion.

342 The meeting adjourned at 8:01p.m.

343

344

345

346

347

348

349 _____
Karen Bouldin, Clerk

Mary Jo Byrnes, Chairman

Date

350

351 /ksb

352

DRAFT