

Board of Zoning Appeals Agenda

July 26, 2021

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

Kurt and Lisa Skinner, 10694 Hollowood Circle, Montgomery, OH 45242 are requesting a variance to allow an addition to have a rear yard setback 27' at the nearest point to the setback line where Schedule 151.1005 of the Montgomery Zoning Code requires a minimum rear yard setback of 35' in the 'A' District.

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

**CITY OF MONTGOMERY
BOARD OF ZONING APPEALS**

Application for Variance: *10694 Hollowood Circle*
July 27, 2021
Staff Report

Applicant: Kurt and Lisa Skinner
10694 Hollowood Circle
Montgomery, Ohio 45242

Property Owner: SAME

Vicinity Map:



Nature of Request:

The applicants are requesting a variance to allow an addition to have a rear yard setback 27' at the nearest point to the setback line where Schedule 151.1005 of the Montgomery Zoning Code requires a minimum rear yard setback of 35' in the 'A' District.

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.

Findings:

1. The lot is approximately 20,298 square feet, which meets the 20,000 square foot minimum required in the 'A' District.
2. The house is a 2,492 square foot two story house built in 1963.
3. An addition to the home was approved in 1993 off the rear of the house, with a small portion extending into the required rear yard setback, which makes a portion of the structure legal non-conforming.
4. The house has a front yard setback of approximately 90' where 50' is the minimum required in the 'A' District.

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?*

Due to the location of the lot at the end of the cul-de-sac, the lot is pie shaped. In addition, there are some topography issues with the lot, with a significant slope from the back to the front. The garage is side loading into the basement of the house.

An addition was previously constructed in 1993; however, a portion of this structure extended into the required rear yard setback. Therefore, it is legal non-conforming. Due to the condition of the structure, the applicant is seeking to replace and expand the addition off the rear of the house.

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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 if the variance is not granted, as a smaller addition could be installed and adhere to the setback requirements. However, the applicant has stated that the legal non-conforming existing addition has structural issues and will need to be brought into compliance with the building code.

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

The variance from the required rear-yard setback is substantial because the applicant is asking for a 23% reduction in the required rear-yard setback at the closest point; however, the addition is proposed to run at an angle which will increase the distance from the rear-yard property line towards the western corner of the addition. Therefore, a large portion of the addition will meet the 35' setback requirement.

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

Staff does not believe that the neighborhood will be substantially altered by granting the variance. Due to the existing lot configuration and placement of the house, the area of the proposed addition would not be visible from the street and there is existing foliage along the rear property line. In addition, the expansion being requested is only one story.

Staff believes that the property that would be the most impacted by granting the variance would be 10691 Bramblewood Circle. While the proposed addition would bring the house closer to the house at 10691 Bramblewood Circle, Staff does not believe that it would negatively impact the property, due to the fact that the two houses would be separated by at least 70'. Additionally, there is existing vegetation and split rail fencing between the two properties which provides a visual buffer.

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

Government services would not be affected by granting the variance.

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

The owner was not aware that the rear-yard setback requirement was 35'. The current legal non-conforming addition was installed by a previous owner.

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?*

The property owner could choose to reduce the overall depth of the addition in order to meet the rear-yard setback requirement of 35'. However, the applicant has stated that the existing addition is in significant disrepair and would not pass inspection if they were to sell the home.

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

Staff does not believe that it is the intent of the zoning code to inhibit improvements to an existing home, if the expansion would not be detrimental to the surrounding properties, the expansion is reasonable and there is a practical difficulty. Staff does not believe that the addition would be detrimental to surrounding properties due to the separation between the house on the subject lot and the surrounding homes, as well as the topography change and existing foliage creating a buffer between the lots. The applicant has also attempted to minimize the amount of variance required, while still aligning the addition with the back of the house. A practical difficulty has not been established, with the exception of the current legal non-conforming addition on the rear of the house. The condition of the structure will require attention.

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

A dimensional variance to allow for a sunroom addition to have a setback of 29'6" where 35' was required in the 'A' District at 10205 Glenash Court was approved on May 25, 2021.

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 foot variance from the 52.5 foot required rear-yard setback for a new home to be constructed on the lot.

A dimensional variance for a rear-yard setback on a panhandle lot was approved for the property located at 8965 Canyon Ridge Lane on September 28, 2010. The Board granted a variance of 26.5' from the 52.5 foot required rear-yard setback for the construction of an addition.

A dimensional variance for a rear-yard setback was approved for 8750 Tanagerwoods Drive on August 23, 2011. The Board granted variances to allow an addition to have a setback of 29.55' and a garage addition to have a setback of 28.14' where 35' is required.

A dimensional variance for a rear-yard setback was denied for 9600 Zig Zag Road on August 21, 2015. The Board denied the request to allow a rear-yard setback of 19' where 35' was required for a new residence.

Other dimensional variances for additions have been granted in the past for lots which do not conform to the 'A' District zoning requirements and for which a practical difficulty can be established.

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

Staff Comments and Recommendations

Staff does not believe that it is the intent of the Zoning Code to inhibit improvements to an existing home if the expansion would not be detrimental to the surrounding properties and a practical difficulty can be established. Staff does not believe that the variance would be detrimental to surrounding properties due to the distance between residences, topography changes, and existing foliage. Staff does recognize the existing addition is in significant disrepair. The proposed addition would be a replacement and expansion of the existing addition's footprint. The current placement of the house 90' from the right of way, significantly limits the rear yard area.

Granting the variance for an addition to have a rear-yard setback of a 27' at the nearest point where 35' is required in substantial compliance with the survey dated June 18, 2021, would be justified by criteria #1, 4, 5, 6, and 7.



APPLICATION FORM

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

Project Address (Location): 10694 Hollowwood Circle, 45242, Neighborhood - Story Book Acres

Project Name (if applicable): Skinner Addition and Remodel, Kitchen and Bath _____

Auditors Parcel Number: 603-0015-0268 _____

Gross Acres: .4648 _____ Lots/Units 1 Commercial Square Footage 2300 _____

Additional Information: _____

PROPERTY OWNER(S) Kurt & Lisa Skinner Contact Kurt & Lisa Skinner _____

Address 10694 Hollowwood Circle, 45242 Phone: 513-846-9998 _____

City: Montgomery _____ State: Ohio _____ Zip: 45242 _____

E-mail address Thewhammer1@hotmail.com

APPLICANT: Kurt & Lisa Skinner _____ Contact: Kurt & Lisa Skinner _____

Address 10694 Hollowwood Circle, 45242 _____ Phone: 513-846-9998 _____

City: Montgomery _____ State Ohio _____ Zip 45242 _____

E-mail address thewhammer1@hotmail.com

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

Property Owner Signature

[Signature]

FOR DEPARTMENT USE ONLY

Print Name Kurt Skinner

Date 7/8/21

Meeting Date:

Total Fee: 300.00 4866

Date Received: 7/8/21

Received By: [Signature]



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 10694 Hollowwood Circle, 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 Lisa Skinner

Print Name Lisa Skinner

Date 6/30/21

Board of Zoning Appeals Members:

Mary Jo Byrnes

Tom Molloy

Bob Saul

Steve Uckotter

Richard White

Peter Fossett

Jade Stewart



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.

*Our house sits back 80 ft, thus not allowing for much expansion room, normal setback, as I understand it is 50ft back from the road. We cannot move forward on the left side as we have installed a Geo - Thermal heating and cooling unit that runs along the front of the house extending down 150ft in 3 different areas, the cost to move would be excessive. Given the odd shape of the lot and the location chosen for the original build we are not left with many options.

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

No, this addition we are looking for also allows for the space for an upgarded kitchen and the expansion to a full bathroom on the main level of the house, this gets in-line with other homes in our general area for amenities as well as square footage. Additionally, the extra space can be converted to a first floor bedroom if needed given health health issues.

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

No, we are asking for a 1ft variance on the extended build on the left side of the house, the kitchen addition will be more significant but also involves replacing/repairing a prior addition that has sunken and is causing other interior issues

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

No these changes will not be visable from the street and not out of line from other homes in our neighborhood.

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

No, they should not in anyway



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

No, we were not aware on the zoning restraints when we purchased the home, or the issues that would arise from the previous addition
We have been told that in its current form our house would likely not pass inspection for sale, and it should not have passed when we bought
it in 2005, however at the time we had no idea what to look for or concerns we should have.

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

No - I do not believe there is.

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

Our goal is to continue to bring our home up to the standard of the community, both in exterior appearance and interior quality, over the years
we have upgraded the full electrical, the ventilation system, replaced windows and moved to a eco-friendly heating and cooling option,
now we need to improve the interior, bringing the Kitchen up to date and the added space is needed for storage. We cannot move forward
as mentioned earlier we have the coils from the Geo-thermal in the way. Thus our only feasible options is backwards.

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

Yes, we believe it would

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

No we do not believe it would, we are not asking for a footprint that is significantly different than other houses or adding-on in such a
significant way that we would be a blemish on the neighborhood. The challenge is how the house was orginally positioned on the lot
and the limitations that has imposed.

10694 Hollowood Circle



Looking east towards neighboring property.



Melissa Hays

From: John Schlosser <john.schlosser@gmail.com>
Sent: Thursday, July 22, 2021 3:09 PM
To: Melissa Hays
Subject: 10694 Hollowwood Circle variance letter

Hi Mellisa,

Alissa and I have reviewed the letter about the proposed variance for our neighbors at 10694 Hollowwood Circle and we have no objections or issues. We live at 10705 Hollowwood Circle. We are not available for the in person hearing but have no concerns to voice. If you have any questions for us please call me at 513-289-5746. Thanks.

--
John Schlosser

Melissa Hays

From: Kelly King Schlegel <kkingschlegel@gmail.com>
Sent: Thursday, July 22, 2021 8:27 PM
To: Melissa Hays
Subject: 10694 Hollowood Circle Variance Request

Hi Melissa,

I live at 7615 Shadowhill Way and received your notice of request for variance and have no concerns per the site plan. The encroachment to the rear property line is minimal.

I am out of town the night of the hearing and hope this email will suffice.

Take care,
Kelly Schlegel
310.487.0665

Melissa Hays

From: Betty Tonne <bettytonne@fuse.net>
Sent: Thursday, July 22, 2021 5:02 PM
To: Melissa Hays
Subject: Skinner variance

I approve the requested variance for the Skinner's Betty Tonne
7635 Shadowhill Way
513-373-1347

Sent from my iPhone

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

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

*Due to the Stay at Home Order issued by Governor DeWine,
this meeting was held in a hybrid fashion, both at City Hall, 10101 Montgomery Road
and also via videoconference on Zoom*

June 22, 2021

<u>PRESENT</u>		
<u>GUESTS & RESIDENTS</u>		<u>STAFF</u>
Craig Margolis Vice Mayor Montgomery City Council 8270 Mellon Drive, 45242	Richard Parrish Representative Montgomery Presbyterian Church 9994 Zig Zag Road, 45242	Melissa Hays, Zoning and Code Compliance Officer
		Karen Bouldin, Secretary
		<u>ALL BOARD MEMBERS PRESENT</u>
		Mary Jo Byrnes, Chairman
		Richard White, Vice-Chairman
		Peter Fossett
		Tom Molloy
		Jade Stewart
		Steve Uckotter
		<u>MEMBERS NOT PRESENT</u>
		Bob Saul

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

Roll Call

The roll was called and showed the following responses:

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

(6)

ABSENT: Mr. Saul

(1)

Pledge of Allegiance

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

Chairman Byrnes gave a brief explanation of tonight's proceedings: She stated that tonight the Board will be conducting 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

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Board of Zoning Appeals and all decisions will take place within the business session of this meeting, which immediately follows the public hearing. Everyone is welcome to stay for the business session of the meeting, however, the Board will not take any further public comment during the portion of the meeting, unless clarification is needed by a Board member.

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

She asked all guests to turn off their cell phones.

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

Guests and Residents

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

Old Business

There was no old business to discuss.

New Business

A request for a variance from Montgomery Presbyterian Church, 9994 Zig Zag Road, to allow a new ground sign to have two sign faces totaling 48 square feet, where 25 square feet is the maximum allowed, per Section 151.3011 of the Montgomery Zoning Code.

Staff Report

Ms. Hays reviewed the Staff Report dated June 22, 2021, "Application for Variance: Montgomery Presbyterian Church, 9994 Zig Zag Road".

Mr. Molloy believed that the colors on the sign were just black and white, except for the logo. He asked if the number of colors on the sign met the code requirements. Ms. Hays confirmed that it would have a white sign base and black painted lettering, and metal cap flashing on the top.

Richard Parrish, Representative, Montgomery Presbyterian Church, 9994 Zig Zag Road, 45242 stated that they were trying to get the sign made as best they could, but because of the times (COVID-related), it was difficult to find a contractor in time, and they didn't meet the 12-month deadline. He did not feel they would have a problem, going forward, as they were actively working with a couple of contractors now, but have been told that it may be several months before they can begin. He noted that brick layers were difficult to find, and stock / supplies are not always available (again, as a result of COVID).

Ms. Stewart asked if they will be able to use the same design as the approved design in 2019.

Mr. Parrish was not sure, stating that they were trying to get very close to that, noting that the

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sign contractor was creating the drawing for signage now. He stated that they would be sure to stay within the requirements.

Mr. Molloy pointed out that an approval would be based on the design that was submitted.

Ms. Hays noted that it needed to be substantially compliant.

There were no other guests or residents in attendance.

Adjournment

Mr. White moved to close the public hearing.

Mr. Uckotter seconded the motion.

The public hearing adjourned at 7:16p.m.

Chairman Byrnes opened the business session at 7:16p.m.

Business Session (1)

A request for a variance from Montgomery Presbyterian Church, 9994 Zig Zag Road, to allow a new ground sign to have two sign faces totaling 48 square feet, where 25 square feet is the maximum allowed, per Section 151.3011 of the Montgomery Zoning Code.

Chairman Byrnes asked for comments from the Board.

Mr. Molloy gave a bit of background, for the benefit of the new Board member: that this application had been approved a year and a half ago, same design and all.

Ms. Stewart was in favor of this application.

Mr. Molloy moved to approve the request for a variance from Richard Parrish, for the property owned by Montgomery Presbyterian Church, 9994 Zig Zag Road, Montgomery, Ohio 45242, to allow for a single, free standing, two-faced sign, totaling 48 square feet, where 25 square feet is the maximum allowed, per Section 151.3011 of the Montgomery Zoning Code, as described in the City of Montgomery Staff Report, dated June 22, 2021.

This approval is in substantial accordance with the plans submitted on July 31, 2019 and the Boundary Survey dated August 14, 2019.

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

Mr. Fossett seconded the motion.

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The roll was called and showed the following vote:

*AYE: Mr. Fossett, Ms. Stewart, Mr. Uckotter, Mr. White, Mr. Molloy,
Chairman Byrnes*

(6)

NAY:

(0)

ABSENT: Mr. Saul

(1)

ABSTAINED:

(0)

This motion is approved.

Adjournment

Mr. White moved to close the business session.

Mr. Uckotter seconded the motion.

The business session adjourned at 7:20p.m.

Chairman Byrnes opened the public hearing at 7:20p.m.

Staff Report

Mr. Margolis thanked the Board for their work, and asked if there were any questions.

Mr. White asked about the roundabout. Mr. Margolis stated that they hope to have this completed by the end of August. Ms. Hays stated that we are entering the last phase of the roundabout, Phase 5.

Chairman Byrnes asked if a roundabout was also planned for Pfeiffer and Deerfield.

Mr. Margolis confirmed – possibly in 2022. He noted that they will remove the Church rectory, and it will be shifted northeast. A couple of driveways will be repositioned, and it will make that intersection much safer.

Mr. Margolis reported on upcoming events: July 4 and Bastille Day on August 21.

Chairman Byrnes noted that the BAMSO Symphony Concert would take place on July 2 at 7:30pm in Montgomery Park. She spoke of the recognition ceremony that will be held there for World War II veterans – there will be 1 woman and 2 men. One of the gentlemen was awarded the French Legion Medal of Honor – the highest honor awarded by France to a soldier for his service. She pointed out the tie-in, with our French sister city.

Other Business

There was no other business to report.

Minutes

Mr. Molloy moved to approve the minutes of May 25, 2021, as written.

Mr. White seconded the motion.

The Board unanimously approved the minutes.

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Adjournment

Mr. White moved to adjourn. Mr. Fossett seconded the motion.

The meeting adjourned at 7:28p.m.

Karen Bouldin, Clerk

Mary Jo Byrnes, Chairman

Date

/ksb