
Board of Zoning Appeals Agenda

April 26, 2022

**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

9620 Zig Zag: Justin and Alicia Murphy, 9620 Zig Zag Road, Montgomery, OH 45242, are requesting a variance to allow a side yard setback of 12.1' where 15' is required in the 'A' zoning district per Schedule 151.1005 of the Montgomery Zoning Code for a residential addition. This is an expansion of a non-conforming structure.

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

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 home was built in 1946.
2. The lot is non-conforming in lot size. The lot is 0.389 acres in size which is approximately 3,055 square feet smaller than the 20,000 square foot minimum lot size required in the 'A' zoning district.
3. The lot is 82 feet in width, which meets the minimum 80 foot width required in the 'A' zoning district.
4. The existing house is non-conforming in that it sits approximately 10.6' off the north property line and approximately 12.1' off the south property line. Chapter 151.1005 requires principle buildings to be a minimum of 15' from the side property line in the 'A' zoning district.
5. The home located to the south of the subject lot at 9610 Zig Zag Road is setback approximately 8 feet from the shared property line; therefore, the existing structures are separated by approximately 20 feet.
6. A setback variance was previously approved for this property in 2015 to allow an addition to have a setback of 12.1' for a length of 18.67'. The addition was never completed and the variance expired.

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 approximately 3,000 square feet smaller than the minimum lot size required in the 'A' District. The existing structure is also non-conforming to the zoning regulations in both side-yard setbacks.

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

Staff believes that the existing non-conforming side-yard setbacks create problems for updating the house, which may have a negative impact on the rate of return for the property.

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

The variance from the required side yard setback is somewhat significant because the applicant is requesting a 20% side yard setback reduction. However, the proposed addition would only extend from the existing home to the rear and will be in line with the existing structure.

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

Many of the lots on Zig Zag Road and the surrounding area on Ross Avenue, Todd Drive and Campus Lane do not conform to the zoning regulations in terms of minimum lot size. A study done of the area found that approximately 53% of the lots do not meet the minimum lot size requirement, including the subject lot. A study found, that is this same neighborhood, 46% or 50 of the houses do not meet the minimum setback requirements for the 'A' zoning district. Much of the redevelopment in the area has been in the form of teardowns with new houses being constructed which meet the required setbacks on lots which are of similar size and width as the lot at 9620 Zig Zag Road. In this case, the applicant is attempting to keep the existing house.

Staff does not believe that the character of the neighborhood will be substantially altered by granting the variance because many of the homes (46%) in the neighborhood do not meet the minimum setback requirements of the district. The view of the house from the street will not be affected as the addition will be setback from the south property line the same amount as the existing structure. The home at 9610 Zig Zag Road would be the most impacted by granting the variance; however, Staff does not believe that granting the variance would have a large negative impact on the house at 9610 Zig Zag Road because the existing structure

already encroaches into the south side-yard setback by a maximum of 2.9' and the applicant is proposing to maintain the same setback.

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 have stated that they did not have the correct information regarding the property line and miscalculated the setback.

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 owners could choose to maintain the existing floor plan of the home; however this would not meet the applicant's objective of having additional living space including a sun room off the first floor and a new master suite on the second floor.

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

The spirit and intent of Sections 151.5003 would not be preserved by granted the variance for the following reasons,

- a) The original building will not be made to conform to the regulations of the district in which it is located.
- b) The proposed extension along the south property line is not in compliance with the regulations of the district and;
- c) The proposed extension along the south property line does not reduce a non-conforming condition.

Despite these facts, 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, does not increase the non-conformity, and the expansion is reasonable. While the applicant is proposing to increase the length of the structure, they would not be increasing the non-conforming side-yard setback along the south property line.

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

Dimensional variances have been granted in the past for lots in this area which do not conform to the 'A' District zoning requirements. Several of these approvals were for expansions of existing non-conforming buildings that required a variance for side yard setback.

Staff Comments and Recommendations

Staff believes that the variance to allow for the expansion of a non-conforming building is appropriate considering that the addition will not increase the non-conforming south side-yard setback and the addition will not extend past the existing side plane of the home.

Staff believes that the variance to allow the proposed addition to encroach 2.9 feet into the required 15 foot side-yard setback along the south property line for a length of approximately 20.33 feet is appropriate considering that the encroachment is in-line with the existing structure.

Granting the variance for the expansion of a non-conforming building and the variance of a maximum of 2.9 feet into the required south side-yard setback would be justified by criteria #1, 2, 4, 5, 6, 9, and 10.



APPLICATION FORM

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

Project Address (Location): 9620 Zig Zag Rd., Montgomery, OH 45242

Project Name (if applicable): N/A

Auditors Parcel Number: 603-0001-0045-00

Gross Acres: 0.389 Lots/Units 1 Commercial Square Footage _____

Additional Information: _____

PROPERTY OWNER(S) Murphy Justin D & Alicia K Contact _____

Address 9620 Zig Zag Rd. Phone: 773-454-0915

City Montgomery State OH Zip 45242

E-mail address justin.murphy1@gmail.com

APPLICANT Justin Murphy Contact _____

Address 9620 Zig Zag Rd. Phone: 773-454-0915

City Montgomery State OH Zip 45242

E-mail address justin.murphy1@gmail.com

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

Property Owner Signature

FOR DEPARTMENT USE

ONLY

Print Name

Justin Murphy

Date 4/4/2022

Meeting Date:

Total Fee:

Date Received:

Received By:



APPLICATION REQUIREMENTS FOR A DIMENSIONAL VARIANCE

An application for a dimensional variance shall be filed with the Zoning Administrator for review by the Board of Zoning Appeals. The application will consist of a written request containing a cover letter accompanied by the following requirements necessary to convey the reason(s) for the requested variance.

1. Application form.
2. Consent of owner(s) to inspect the premises form.
3. Proof of ownership, legal interest or written authority.
4. Description of property or portion thereof.
5. Description of nature of variance requested.
6. Narrative statements establishing and substantiating the justification for the variance pursuant to the attached criteria list.
7. Site plans, floor plans, elevations and other drawings at a reasonable scale to convey the need for the variance.
8. Payment of the application fee.
9. Any other documents deemed necessary by the Zoning Administrator.



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.

Extending the home along the 15 foot setback would create some very difficult pitches on the mansard roof whereas extending the home along the existing setback would allow for more uniform roof

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

Without the variance the project will not happen. It is unknown what the rate of return might be.

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

No, the variance is not substantial. Three feet is the minimum necessary.

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

No

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

No



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

At the time the owner did not have the correct information regarding the property line and miscalculated the setback.

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

No special conditions will be created as a result of the actions of the owner.

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

Any other approach would significantly complicate the scope of work and make parts of the project impossible.

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

Yes.

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

No.



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 9620 Zig Zag Rd., Montgomery, OH 45242, we hereby grant permission to Members of the Board of Zoning Appeals and City of Montgomery Staff to enter the property for visual inspection of the exterior premises. The purpose of said inspection is to review the existing conditions of the subject site as they relate to the application as filed to the Board of Zoning Appeals.

Property Owner(s) Signature _____

Print Name Justin Murphy

Date 4/1/2022

Board of Zoning Appeals Members:

Mary Jo Byrnes

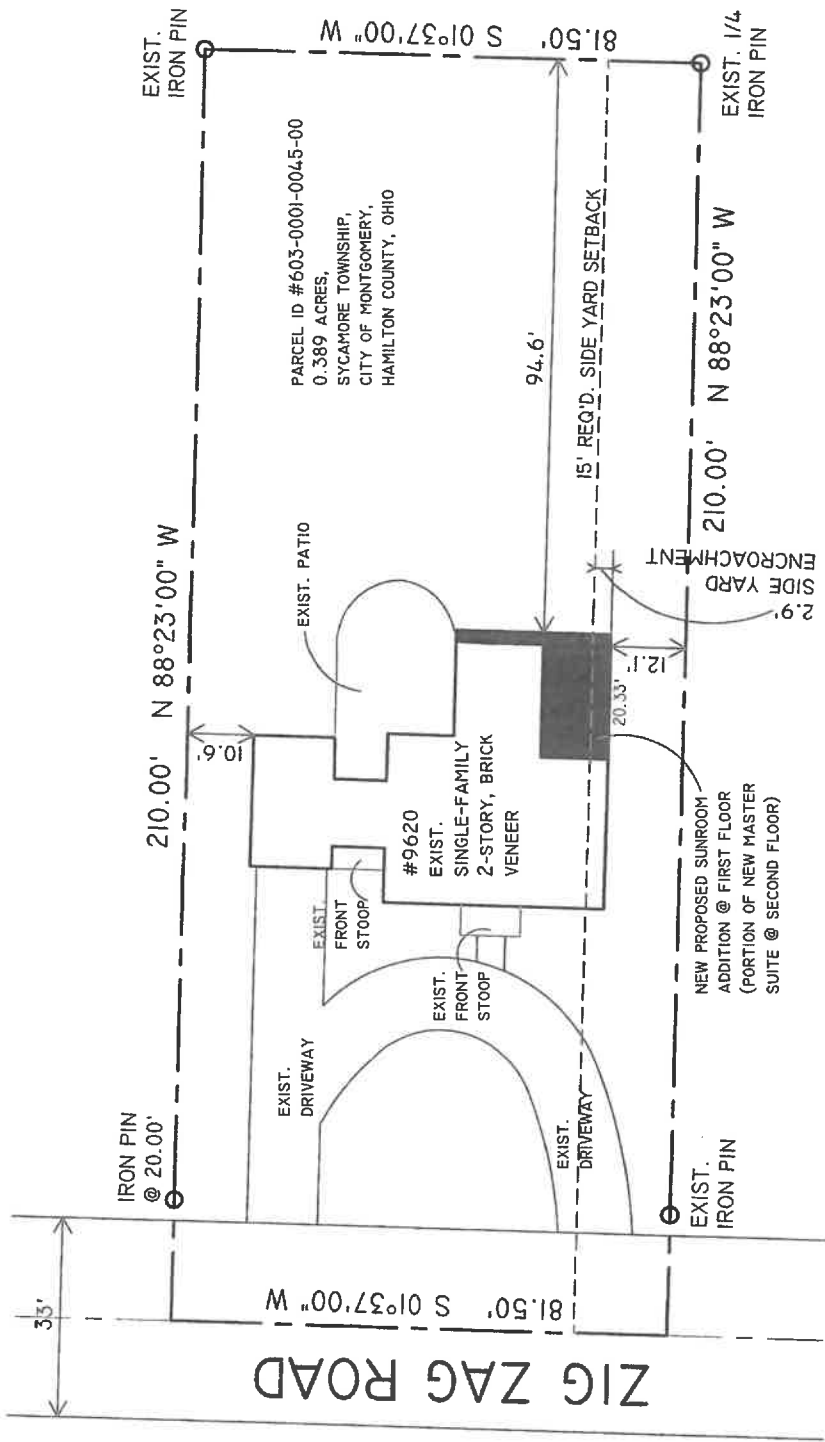
Tom Molloy

Bob Saul

Steve Uckotter

Richard White

Peter Fossett



PLOT PLAN
SCALE: 1" = 20' 8/3/15

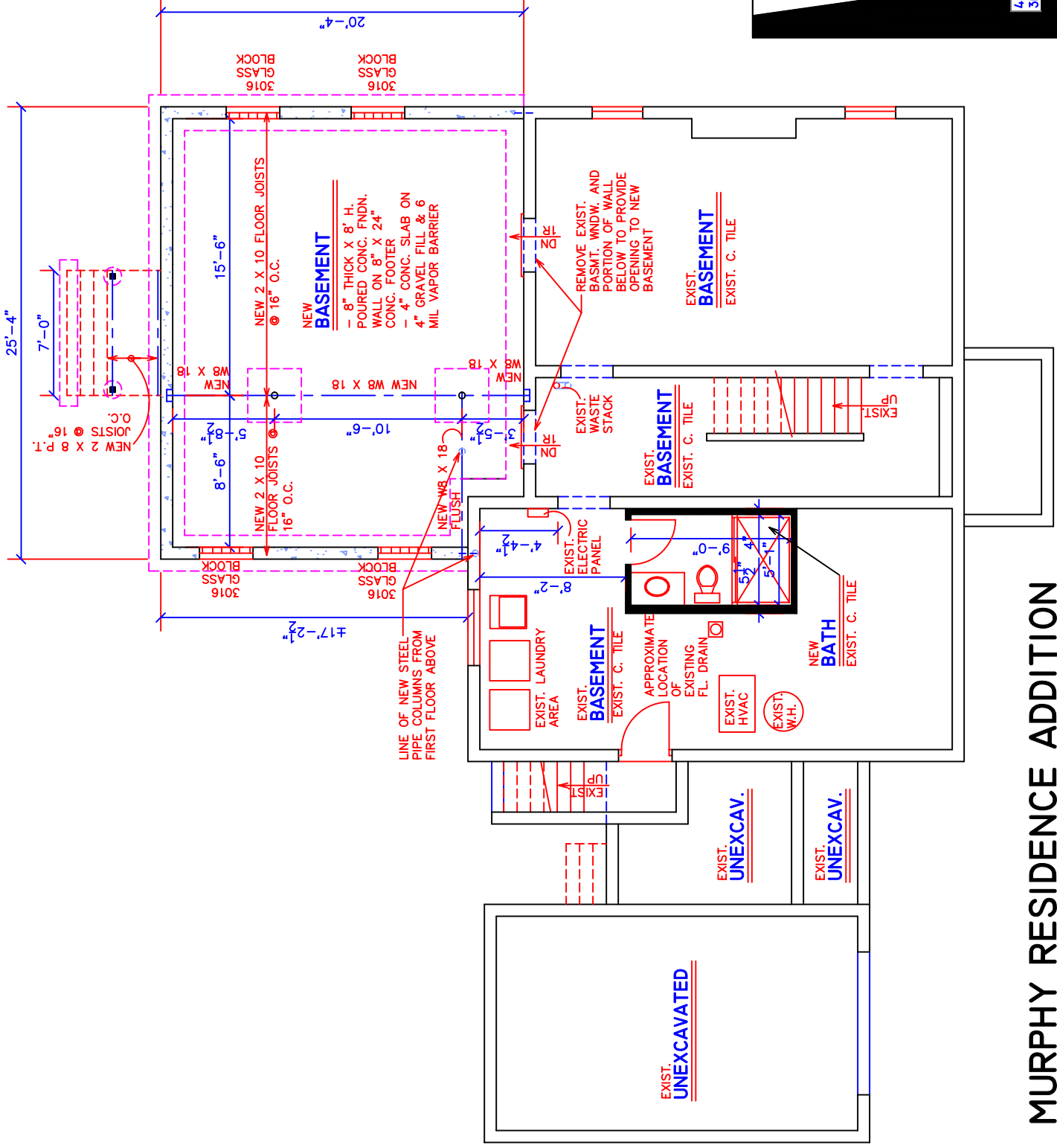


ADDITION TO THE MURPHY RESIDENCE

9620 ZIG ZAG ROAD
MONTGOMERY, OHIO 45242

OWNERS: JUSTIN D. AND ALICIA K. MURPHY

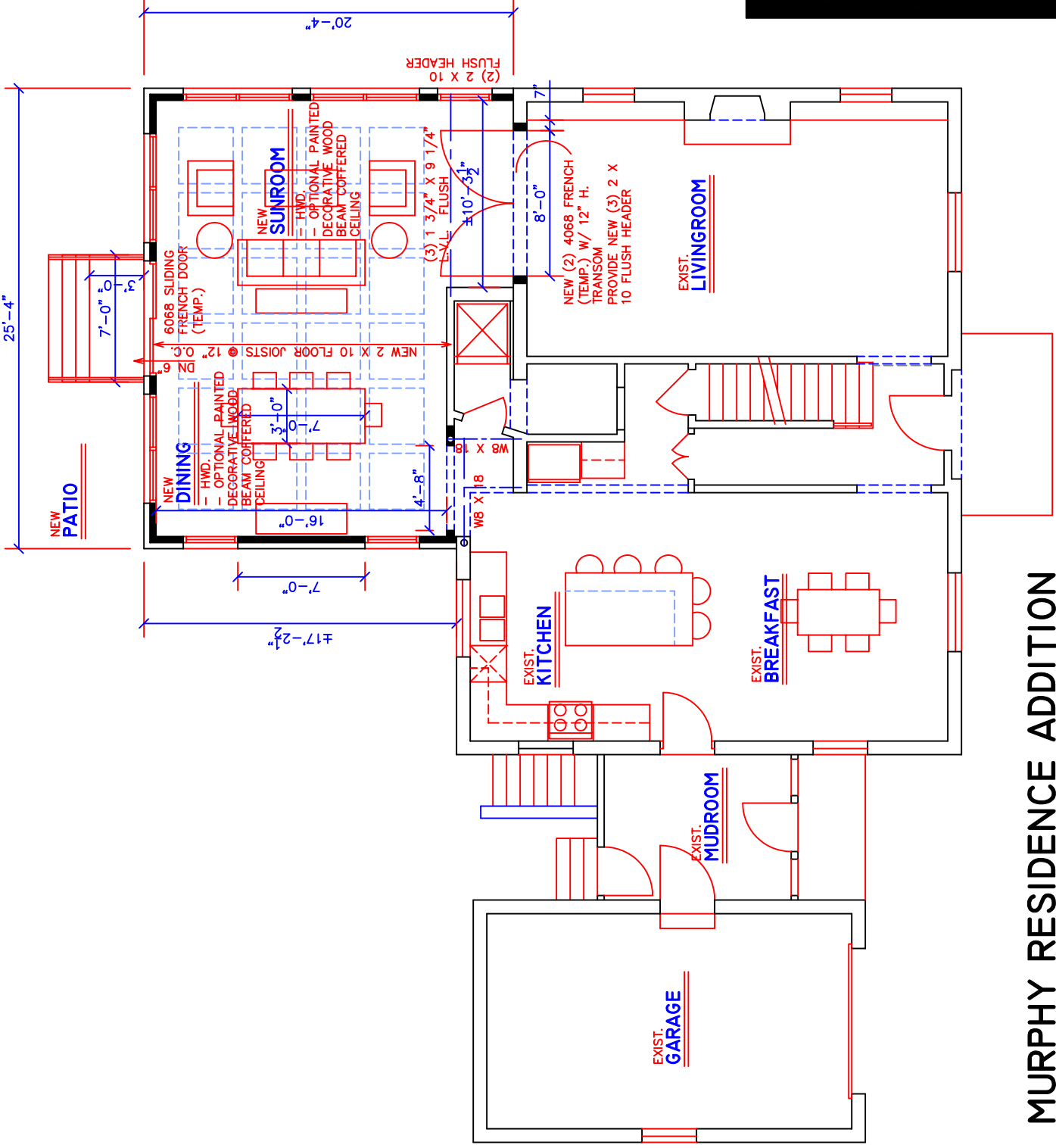
SITE BOUNDARIES AND STRUCTURE
LOCATIONS BASED ON SURVEY BY JOHN
J. DUFFY & ASSOCIATES, JOHN M.
DUFFY, STATE OF OHIO REGISTERED
SURVEYOR, #7757.
SURVEY DATED 7-1-14.



MURPHY RESIDENCE ADDITION BASEMENT FLOOR PLAN

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

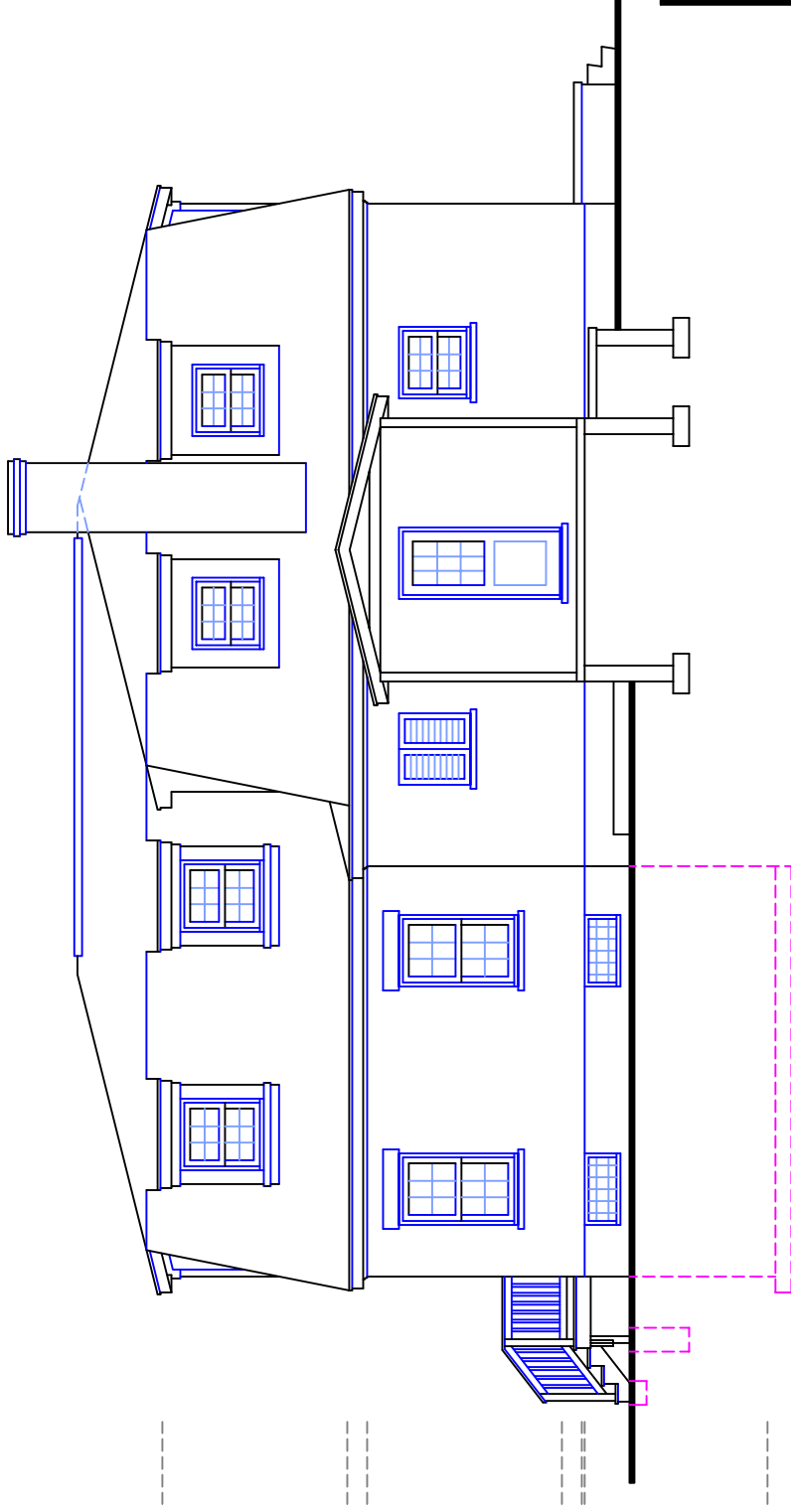
02/17/22
03/17/22 REV.



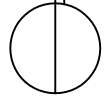
MURPHY RESIDENCE ADDITION FIRST FLOOR PLAN

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

02/17/22
03/17/22 REV.



MURPHY RESIDENCE ADDITION LEFT SIDE ELEVATION



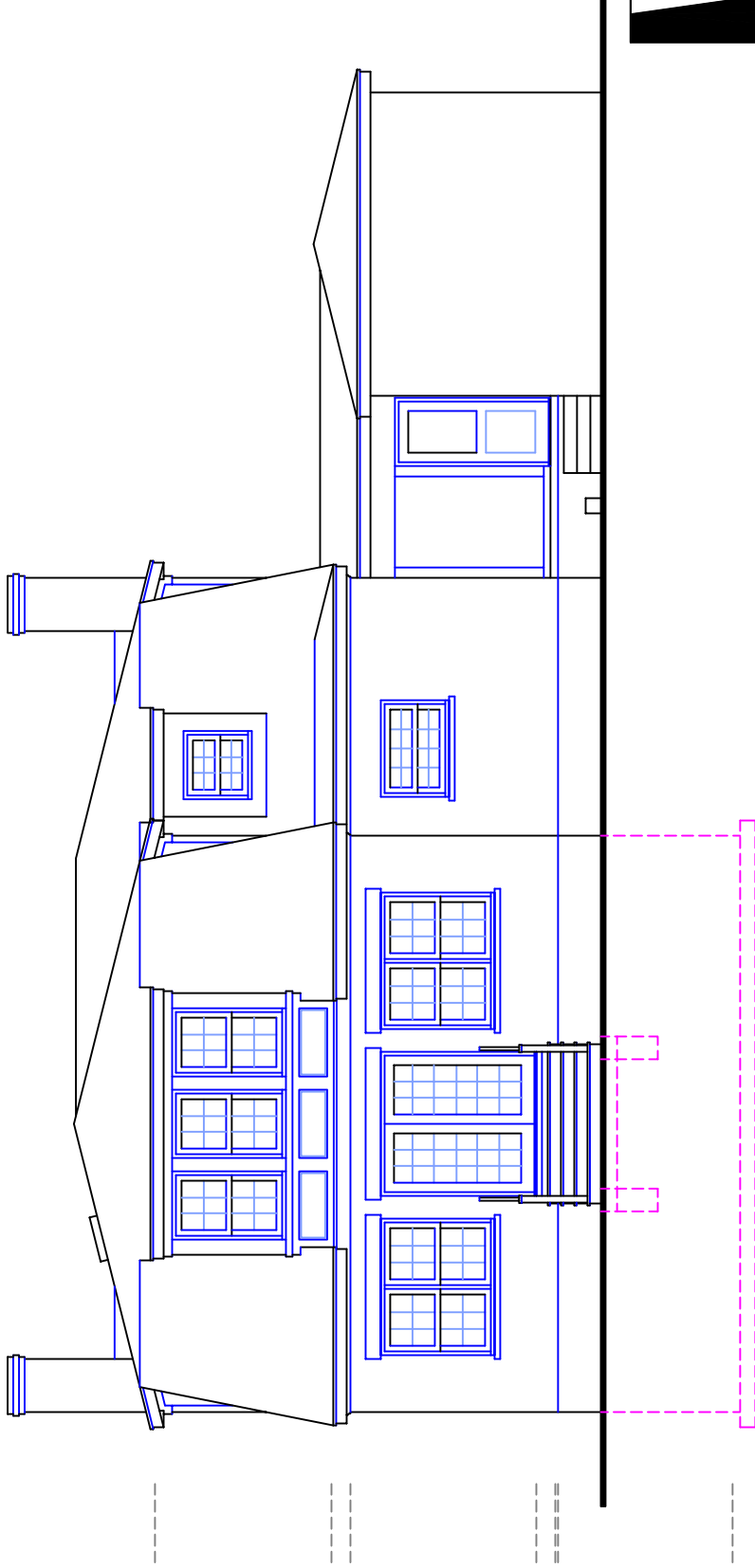
SCALE: 1/8" = 1'-0"

02/17/22
03/17/22 REV.

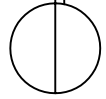
Kent
Bradley
Roush
Architects,
LLC

4142 AIRPORT ROAD
3RD FLOOR, SUITE 3
CINCINNATI, OHIO
45226

513 321-9242



MURPHY RESIDENCE ADDITION REAR ELEVATION



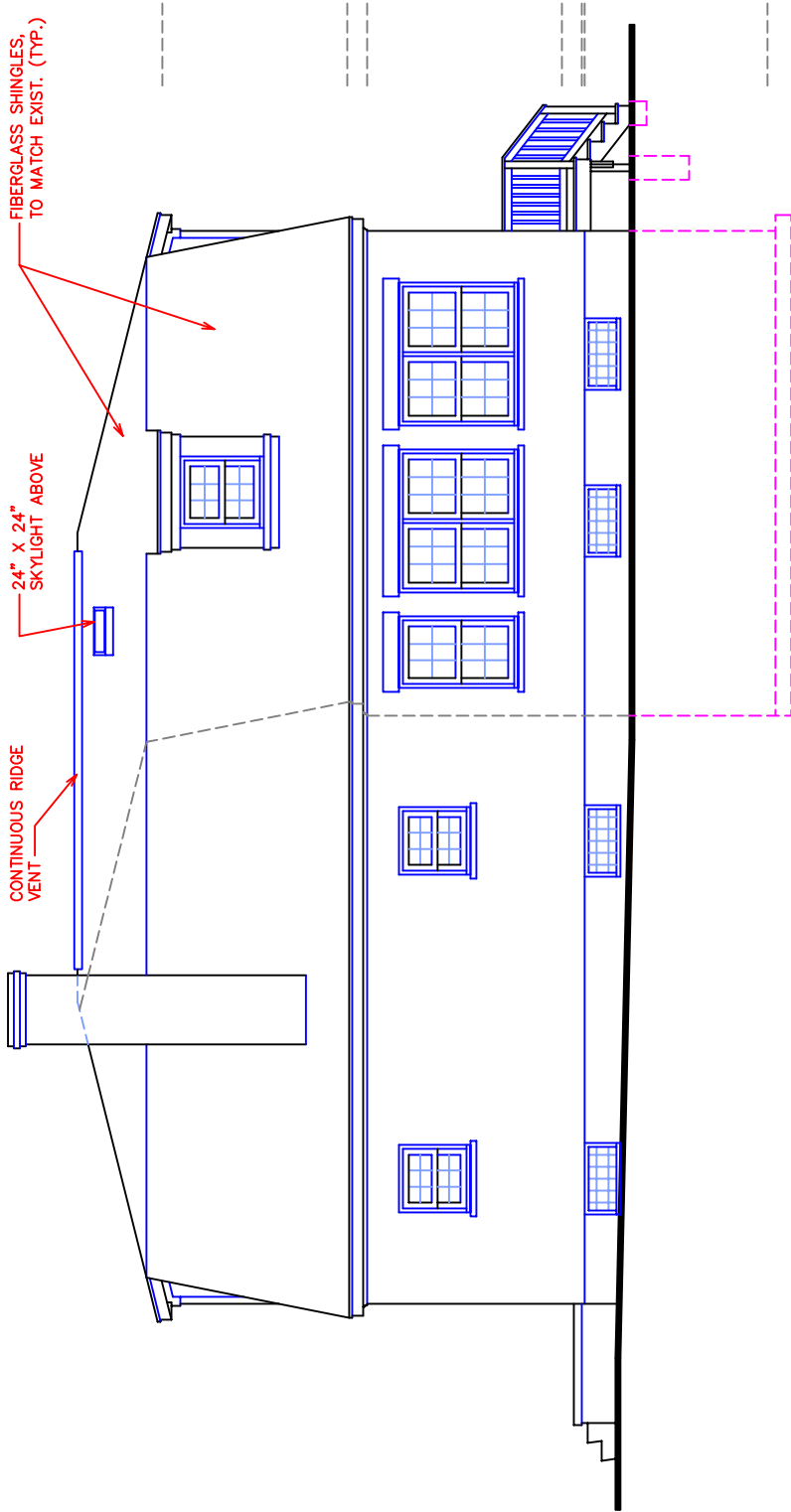
SCALE: 1/8" = 1'-0"

02/17/22
03/17/22 REV.

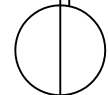
Kent
Bradley
Roush
Architects,
LLC

4142 AIRPORT ROAD
3RD FLOOR, SUITE 3
CINCINNATI, OHIO
45226

513 321-9242



**MURPHY RESIDENCE ADDITION
RIGHT SIDE ELEVATION**



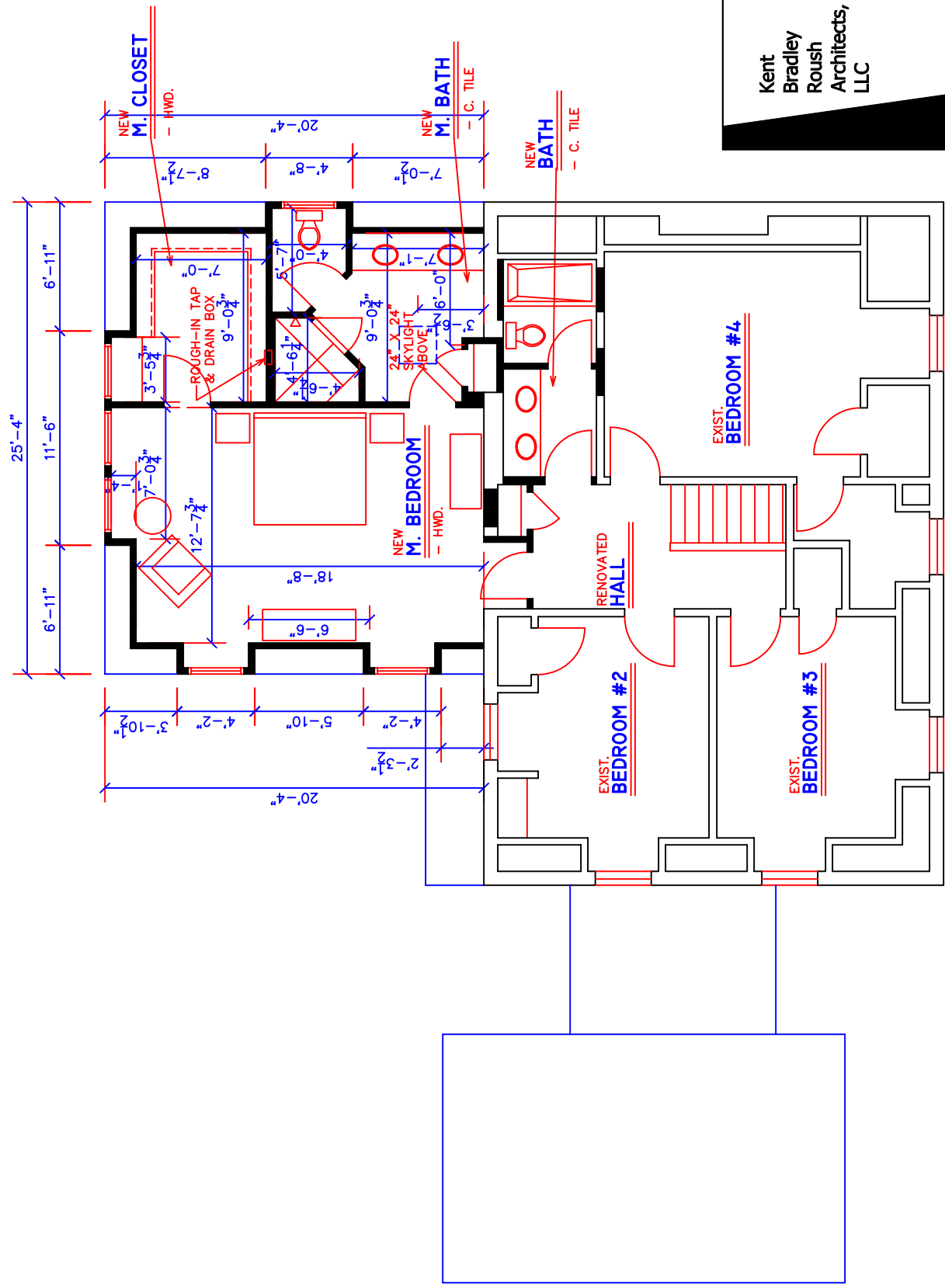
SCALE: 1/8" = 1'-0"

02/17/22
03/17/22 REV.

**Kent
Bradley
Roush
Architects,
LLC**

4142 AIRPORT ROAD
3RD FLOOR, SUITE 3
CINCINNATI, OHIO
45226

513 321-9242



Kent
 Bradley
 Roush
 Architects,
 LLC

4142 AIRPORT ROAD
 3RD FLOOR, SUITE 3
 CINCINNATI, OHIO
 45226

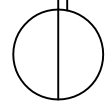
513 321-9242

MURPHY RESIDENCE ADDITION

SECOND FLOOR PLAN

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

02/17/22
03/17/22 REV.



Melissa Hays

From: Cindy Bambauer <cindybambauer@icloud.com>
Sent: Thursday, April 14, 2022 7:53 AM
To: Melissa Hays
Subject: Murphy 9620 Zig Zag Variance

Hello Melissa, my name is Cindy Bambauer and I live at 9635 Zig Zag Rd. I received the note about a variance of setback for the Murphy's. I cannot attend the meeting on 4/26, but wanted to let you know that I am in full support of the Murphy's project, including the setback. They always keep their home looking great and I am sure this project will only improve things.

If you need to discuss further, I can be reached at 513-256-7057.

Kind Regards,

Cindy Bambauer

4/18/22
\$0

NOTICE OF PUBLIC MEETING

The City of Montgomery Board of Zoning Appeals will meet on Tuesday, April 26, 2022 at 7:00 p.m. in City Council Chambers at 10101 Montgomery Road to consider a request for a dimensional variance. The applicants request the following:

9620 Zig Zag: Justin and Alicia Murphy, 9620 Zig Zag Road, Montgomery, OH 45242, are requesting a variance to allow a side yard setback of 12.1' where 15' is required in the 'A' zoning district per Schedule 151.1005 of the Montgomery Zoning Code for a residential addition. This is an expansion of a non-conforming structure.

As the owner of property located within 300 feet of this property, you are invited to attend this hearing and provide comment. If you cannot attend, you may also provide written comments in advance of the meeting. Comments should be sent to The City of Montgomery Development Department, 10101 Montgomery Road. A copy of the application for the variance can be viewed at the Montgomery Building Department during regular business hours, 8:00 a.m. - 4:30 p.m. More information regarding this application may be obtained by contacting Melissa Hays, Zoning and Code Compliance Officer, at mhays@montgomeryohio.gov or 792-8347.

4/13/22

To the Montgomery Zoning Board,
The property @ 9620 Zig Zag is a fine looking and substantial home. In this "tear-down" frenzy, I am glad to see an improvement to an existing property. We enthusiastically approve of this variance request.

Sincerely,
James + Michelle Brooker
9633 Todd Tr
10101 Montgomery Road, Montgomery, Ohio 45242 • montgomeryohio.org • 513-891-2424
Cincinnati OH 45242

We support the
granting of
this variance to
the Murphy's.

Zoriba Peter
9610 Todd Drive



CITY OF

MONTGOMERY

A CHARMING PAST. A GLOWING FUTURE.

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

City Hall, 10101 Montgomery Road, Montgomery, OH 45242

February 22, 2022

<u>PRESENT</u>		
<u>GUESTS & RESIDENTS</u>		<u>STAFF</u>
Lee Ann Bismeyer Vice Mayor City Council	Gene & Tammy Rohne 8005 Higgins Ct., 45242	Kevin Chesar Community Development Director
Ann Henry 7960 Remington Rd., 45242	Jim Sluka 4041 Ledgewood Drive #2 Cincinnati, OH 45229	Melissa Hays, Zoning and Code Compliance Officer Karen Bouldin, Secretary
Alan McCoy & Michelle McGee 10607 Merrick Lane, 45242	Loretta Ann Williams 8003 Higgins Ct., 45242	<u>ALL BOARD MEMBERS PRESENT</u> Mary Jo Byrnes, Chairman Richard White, Vice-Chairman Catherine Mills Reynolds Bob Saul Jade Stewart Steve Uckotter
		<u>MEMBERS NOT PRESENT</u> Tom Molloy

Election of Officers

Mr. Uckotter nominated Ms. Byrnes for Chairman for a period of one (1) year, beginning February 1, 2022.

Mr. Saul seconded the motion.

No other nominations were brought to the floor.

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

The Board unanimously approved the motion to close the nominations.

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

Ms. Stewart nominated Mr. White for Vice-Chairman for a period of one (1) year, beginning February 1, 2021.

Mr. Saul seconded the motion.

There were no other nominations brought to the floor.

Ms. Stewart moved to close the nominations.

Mr. Uckotter seconded the motion.

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Board of Zoning Appeals Meeting

January 25, 2022

25 The Board unanimously approved the motion to close the nominations.

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

27
28 Chairman Byrnes presented the Roberts Rules of Order and Procedure governing the Board of
29 Zoning Appeals of the City of Montgomery, Ohio, originally adopted in March, 2002. She asked
30 all members if there was any discussion or changes. There was none.

31
32 Ms. Stewart moved to affirm the Rules, as presented.

33 Mr. White seconded.

34
35 Chairman Byrnes called the meeting to order at 7:00 p.m.

Roll Call

36
37
38 *The roll was called and showed the following responses:*

39
40
41 **PRESENT: Ms. Catherine Mills Reynolds, Mr. Uckotter, Mr. White, Mr. Saul, Ms. Stewart,**
42 **Chairman Byrnes** (6)

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

Pledge of Allegiance

44
45 All of those in attendance stood and recited the Pledge of Allegiance.

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

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

58
59 She asked all guests to turn off their cell phones.

60
61 Chairman Byrnes asked that anyone planning to speak to the Board please stand to be sworn in
62 (which includes the applicant). Chairman Byrnes swore in everyone planning to speak.

63
64 Chairman Byrnes welcomed new Board member, Catherine Mills Reynolds to her first meeting.
65 She noted that Peter Fossett has moved to the Planning Commission.

Guests and Residents

66
67
68 Chairman Byrnes asked if there were any guests or residents who wished to speak about items
69 that were not on the agenda. There were not.

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Board of Zoning Appeals Meeting

January 25, 2022

70

New Business (1)

72 *A request for a variance from property owner, Jim E. Sluka, for parcel ID 060300240367 to*
73 *allow a new single-family dwelling to have a rear yard setback of 23 feet, where 30 feet is the*
74 *minimum required, per Schedule 151.1005 of the Montgomery zoning Code.*

75

Staff Report

77 Ms. Hays reviewed the Staff Report dated February 22, 2022, "Application for Variance: James
78 E. Sluka Parcel ID 060300240367 – Hightower Court". She asked for any questions from the
79 Board. There were none.

80

81 Chairman Byrnes asked if the applicant wished to speak.

82

83 **Jim Sluka, 4041 Ledgewood Drive, #2, Cincinnati, OH 45229** gave background and history
84 of the ownership of this parcel. He asked if there were any questions.

85

86 Mr. White felt that this lot size looked like it would be almost impossible to build on, without
87 some variances. He understood that the back property line was pretty close, but the house behind
88 him, made up for what he didn't have. Mr. Sluka confirmed that there was 45 feet in between
89 the two homes. Mr. White stated that this plan managed to squeeze a reasonably sized house
90 into an unreasonable lot. Mr. White asked if Mr. Sluka planned to occupy this house, and
91 Mr. Sluka confirmed that he did, and that he was satisfied with it.

92

93 There were no more questions from the Board.

94

95 Chairman Byrnes asked if any guests or residents wished to speak. They did not.

96

Adjournment

98 Mr. White moved to close the public hearing.

99 Mr. Uckotter seconded the motion.

100 The public hearing adjourned at 7:20p.m.

101

102 Chairman Byrnes opened the business session at 7:20p.m.

103

Business Session (1)

105 *A request for a variance from property owner, Jim E. Sluka, for parcel ID 060300240367 to*
106 *allow a new single-family dwelling to have a rear yard setback of 23 feet, where 30 feet is the*
107 *minimum required, per Schedule 151.1005 of the Montgomery zoning Code.*

108

109 Ms. Stewart stated that he has tapered the back walls of the property relative to the angle of the
110 property line, and she did not know what else he could possibly do, to get a home on this lot.

111

112 Chairman Byrnes agreed.

113

114

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Board of Zoning Appeals Meeting

January 25, 2022

115 **Mr. Uckotter moved to approve the request for a variance from property owner, Jim E. Sluka,**
116 **for parcel ID 060300240367 to allow a new single-family dwelling to have a rear yard setback**
117 **of 23 feet, where 30 feet is the minimum required, per Schedule 151.1005 of the Montgomery**
118 **Zoning Code, as described in the City of Montgomery Staff Report dated February 22, 2022.**
119

120 **This approval is justified by criteria # 1, 2, 3, 4, 5, 6, 7, 8, 9 &10, as outlined in Montgomery**
121 **Codified Ordinance Chapter 150.2010 (d) for granting variances.**
122

123 **Mr. Saul seconded the motion.**
124

125 **The roll was called and showed the following vote:**
126

127 **AYE: Ms. Stewart, Ms. Mills Reynolds, Mr. Uckotter, Mr. White, Mr. Saul,**
128 **Chairman Byrnes** (6)

129 **NAY:** (0)

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

131 **ABSTAINED:** (0)
132

133 **This motion is approved.**
134

Adjournment

136 Mr. White moved to close the business session.

137 Mr. Saul seconded the motion.

138 The business session adjourned at 7:22p.m.
139

140 Chairman Byrnes opened the public hearing at 7:22p.m.
141

Business Session (2)

143 **A request for a variance from property owners, Alan McCoy and Michelle McGee, for 8307**
144 **Turtlecreek Lane, to allow a driveway to be setback 2 feet, 6 inches from the side property line,**
145 **where a 5 foot setback is required, per Section 151.3211 of the Montgomery Zoning Code.**
146

147 Ms. Hays reviewed the Staff Report dated February 22, 2022, "Application for Variance:
148 Alan McCoy and Michelle McGee at 8307 Turtlecreek Lane."
149

150 Mr. White asked if the rest of the driveway met all zoning requirements. Ms. Hays confirmed.
151

152 Mr. Saul recalled there was one tree on both sides, and if the driveway would impact the trees.
153 Ms. Hays deferred to the applicant.
154

155 Chairman Byrnes asked if the applicant wished to speak.
156

157 **Michelle McGee, 8307 Turtlecreek Lane, Montgomery, OH 45242** stated that they are
158 making the driveway wider -at the garage, so that you can pull out, and then turn to go out.
159 She explained that the longer part of the existing driveway is now 16 feet wide, and they plan to

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Board of Zoning Appeals Meeting

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160 reduce it to 14 feet wide. They are doing this so that they can have more room between the
161 concrete and the base of the trees. It will actually be coming in, from both trees. She noted that
162 these are huge oak trees, and they don't want to lose them; they are currently in good health.

163
164 Mr. White asked if the existing driveway was also cement. Ms. McGhee confirmed.
165

166 Mr. Uckotter understood, noting that there is currently gravel there now, to allow the car to go in
167 square, to the garage. Ms. McGhee stated that the gravel will be replaced by concrete.
168

169 Ms. Mills Reynolds stated that it looked like they were pretty far away from the other person's
170 active property space. Ms. McGee agreed, noting that the neighbor actually wrote a letter,
171 saying that they had no objection, and they were happy that she is planning to save the trees.
172

173 Chairman Byrnes asked if any guests or residents had comments. There were none.
174

Adjournment

176 Mr. Saul moved to close the public hearing.

177 Mr. White seconded the motion.

178 The public hearing adjourned at 7:35p.m.
179

180 The business session was called to order at 7:35p.m.
181

Business Session (2)

183 *A request for a variance from property owners, Alan McCoy and Michelle McGee, for 8307*
184 *Turtlecreek Lane, to allow a driveway to be setback 2 feet, 6 inches from the side property line,*
185 *where a 5 foot setback is required, per Section 151.3211 of the Montgomery Zoning Code.*
186

187 Ms. Stewart felt there was nowhere else to put the driveway, and she appreciated that they were
188 trying to save the trees; she did not feel there was any other work-around to this problem.
189

190 Chairman Byrnes agreed.
191

192 *Mr. Uckotter moved to approve the request for a variance from property owners, Alan McCoy*
193 *and Michelle McGee, for 8307 Turtlecreek Lane, Montgomery, Ohio 45242 to allow a*
194 *driveway to be setback 2 feet, 6 inches from the side property line, where a 5 foot setback is*
195 *required, per Section 151.3211 of the Montgomery Zoning Code, as described in the City of*
196 *Montgomery Staff Report dated February 22, 2022.*
197

198 *This approval is justified by criteria # 1, 3, 4, 5, 6, 7, 8, 9 &10, as outlined in Montgomery*
199 *Codified Ordinance Chapter 150.2010 (d) for granting variances.*
200

201 *Mr. Saul seconded the motion.*
202

203 *AYE: Ms. Mills Reynolds, Mr. Uckotter, Mr. Saul, Ms. Stewart, Mr. White*
204 *Chairman Byrnes*

(6)

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205 **NAY:** (0)
206 **ABSENT: Mr. Molloy** (1)
207 **ABSTAINED:** (0)

208
209 ***This motion is approved.***

211 **Adjournment**

212 Mr. Uckotter moved to close the business session.

213 Mr. White seconded the motion.

214 The business session adjourned at 7:37p.m.

215
216 Chairman Byrnes opened the public hearing at 7:37p.m.

218 **New Business (3)**

219 ***A request for 3 variances from property owners Jim Sykes and Ann Henry for***
220 ***7960 Remington Road, Montgomery, OH 45242:***

222 ***1) to allow 80 square feet of a proposed attached single-family dwelling to have a setback***
223 ***of 25 feet from the eastern side property line, where 30 feet is required, per Schedule***
224 ***151.1009(3)(a) of the Montgomery Zoning Code.***

226 ***2) to allow a side yard setback of 0 feet, (for each parcel) regarding their internal lot line,***
227 ***where 30 feet is required, per Schedule 151.1009(3)(a) of the Montgomery Zoning***
228 ***Code, as it pertains to the shared common wall of the attached single-family structure.***

230 **Staff Update**

231 Mr. Chesar reviewed the Staff Report dated February 22, 2022, "Application for Variance/s: Jim
232 Sykes and Ann Henry for Parcel ID's 060300020016 and 060300020040 at 7960 Remington
233 Road." Correction was made on page 2 of the report, noting that western should be eastern,
234 throughout the report. He noted that the site plan was correct.

236 Ms. Stewart clarified that each parcel would have a single-family home, and each parcel needed
237 the 0 foot setback. Mr. Chesar confirmed, noting that there would be a common wall. She asked
238 if the Planning Commission had any objections to these proposed plans. Mr. Chesar stated that
239 they did not, noting that the Planning Commission had approved the General Development Plan.

241 Mr. Uckotter stated that this was zoned multi-family. He asked how many apartments they could
242 have, if the applicant had decided to build an apartment building there. Mr. Chesar stated only
243 two, based on the size, however, he deferred to the property owner. Mr. Uckotter's point was
244 that they could not put in 8 studio apartments. Mr. Chesar stated not, because it was also limited
245 by the enclosed parking spaces, and other factors that limited how many units can be placed
246 there.

248 Ms. Stewart asked if we would only need a variance for one side yard setback, if this were just
249 for one parcel. Mr. Chesar confirmed – if it were just for one parcel. There was discussion on

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250 the differences between a condominium and landminium, and Mr. Chesar believed the
251 landminium was the property owner's intent.

252
253 Mr. Saul asked for a definition of a landminium. Each individual property owner would not
254 only own the structure (the single family home), but also own the land around it. And with this
255 landminium, they share a common wall, which is why there is a 0 setback. With a
256 condominium, typically you only own the structure, and a common HOA (Home Owners
257 Association) owns the land.

258
259 Mr. Saul asked if there was a requirement for increasing the sound insulation between the two
260 structures when you shared a common wall. Mr. Chesar deferred to the applicant. Mr. Saul
261 stated that would be a desirable aspect. Mr. Chesar was not sure if there was a sound
262 requirement, but probably a fire-wall requirement; he was not sure.

263
264 Chairman Byrnes asked if the applicant wished to speak.

265
266 **Ann Henry, 7960 Remington Rd., Montgomery, OH 45242** stated that she would speak on
267 behalf of her and her husband, Jim Sykes, as he was not able to attend. She stated that she is a
268 partner of a design and architecture firm that she started in 2013. She stated that she has created
269 all of these drawings. She explained that her husband is a retired footing contractor, also in the
270 construction business. She explained that they have lived at this property for 20 years, and have
271 seen the changes happen around them, noting the town homes in the Heritage District. She
272 stated that when they realized that they were already zoned for multi-family, they decided to
273 capitalize on this. They plan to live in one half (east), and sell the other half. (west). She wanted
274 her architecture to blend with the Heritage District.

275
276 Regarding the common shared wall, she noted that there are minimum sound transmission
277 requirements, but she intends to go beyond that; she confirmed that there is a fire rating
278 requirement.

279
280 Chairman Byrnes asked about the larger unit on the second floor. She asked if they were
281 envisioning renting it out, or using it as an Air BnB. Ms. Henry stated they were not. She stated
282 that it may be a guest suite, or perhaps an office.

283
284 Mr. White felt the rendering was very nice.

285
286 Chairman Byrnes asked if any guests or residents had questions or comments.

287
288 **Gene Rohne, 8005 Higgins Ct., Montgomery, OH 45242** stated that his backyard faces this
289 property. He asked if they were planning to remove all of the trees, as there was a fairly wooded
290 section. Ms. Henry stated that they have a plan showing the trees to be removed.

291
292 Mr. Rohne stated that there was already an erosion problem in the back, now, and was concerned
293 with any more trees being taken out. He pointed out that some of those trees in the back have
294 fallen on his shed, and he had to take down the shed. He removed the fallen trees, he didn't ask

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295 anyone, just took care of it, as he wasn't sure who owned those trees. That is how he became
296 concerned with the water issue, because he saw it then. He did not want to incur more water
297 issues, and asked if this new building would be elevated. He stated that the last rain they just
298 had, brought water flooding the whole apartment building, up to the garage door. He can see it
299 from his back yard. He was worried about the future, and the continued erosion.

300

301 Mr. Rohne stated that he was in favor of this application, but was concerned about them taking
302 out more trees, and creating a bigger water issue. He stated that there is actually a drain pipe
303 back there, but it stops up.

304

305 Chairman Byrnes asked Ms. Hays what could be done. Ms. Hays stated that she would look into
306 it further, and during construction, they will require soil erosion fencing. Ms. Hays stated that
307 whenever they review drainage, they try to get everything out to the street, if possible.

308 Mr. Rohne stated that was the problem, because his backyard *was* the drainage.

309

310 Ms. Henry stated that she had a drawing of the trees they were taking out, but she didn't have it
311 with her tonight. Ms. Henry stated that she would send the drawing to Mr. Chesar so that he
312 could share that with the other residents.

313

314 Ms. Hays stated that she and the Engineering firm would address this – it is something they do
315 with every property. Mr. Chesar stated that this will have to have a Final Development Plan
316 Approval from Planning Commission, as well.

317

318 Some other residents in the audience echoed the same - drainage concerns. There were concerns
319 that houses would be flooded. Chairman Byrnes encouraged these residents to stay in touch with
320 each other, and the City, to be sure their concerns are addressed.

321

Adjournment

322 Mr. White moved to close the public hearing.

323 Mr. Uckotter seconded the motion.

324 The public hearing adjourned at 8:02p.m.

325

326 The business session was called to order at 8:02p.m.

327

Business Session (3)

328 *A request for 2 variances from property owners Jim Sykes and Ann Henry for 7960*

329 *Remington Road, Montgomery, OH 45242:*

330

331 *1) to allow 80 square feet of a proposed attached single-family dwelling to have a setback*
332 *of 25 feet from the eastern side property line, where 30 feet is required, per Schedule*
333 *151.1009(3)(a) of the Montgomery Zoning Code.*

334 *2) to allow a side yard setback of 0 feet, regarding their internal lot line, where 30 feet is*
335 *required, per Schedule 151.1009(3)(a) of the Montgomery Zoning Code, as it pertains*
336 *to the shared common wall of the attached single-family structure.*

337

338

339

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340 Mr. Uckotter liked this plan, two homes versus two rentals; and believed it would look good in
341 the Heritage District. He hoped it would solve the water problem. Mr. Chesar pointed out that
342 the water is coming from elsewhere around there, but it will not make the problem worse.

343
344 Chairman Byrnes felt that the Board was in agreement.

345
346 Mr. Uckotter stated that he was going to make one motion because technically, these lots do not
347 yet exist; and everything is dependent on the entire package. Ms. Stewart asked if each parcel
348 required separate motions, from a record-keeping standpoint. Ms. Hays pointed out that this was
349 the parent parcel.

350
351 ***Mr. Uckotter moved to approve the request for 2 variances from property owners Jim Sykes***
352 ***and Ann Henry for the property situated at Parcel ID 060300020016 and***
353 ***Parcel ID 060300020040 at 7960 Remington Road, Montgomery, OH 45242, to allow for***
354 ***attached, single-family residences, with an eastern side yard setback of 25 feet, where 30 feet is***
355 ***required; and to allow a side yard setback of 0 feet on the internal lot line, as it pertains to the***
356 ***shared common wall for the two newly proposed lots, where 30 feet is required, per***
357 ***Schedule 151.1009(3)(a) of the Montgomery Zoning Code, as described in the Montgomery***
358 ***Zoning Code, as described in the City of Montgomery Staff Report dated February 22, 2022.***

359
360 ***This approval is justified by criteria # 1, 3, 4, 5, 6, 7, 8, 9 &10, as outlined in Montgomery***
361 ***Codified Ordinance Chapter 150.2010 (d) for granting variances.***

362
363 ***Mr. Saul seconded the motion.***

364
365 ***The roll was called and showed the following vote:***

366
367 ***AYE: Ms. Stewart, Ms. Mills Reynolds, Mr. Uckotter, Mr. White, Mr. Saul,***
368 ***Chairman Byrnes*** (6)
369 ***NAY:*** (0)
370 ***ABSENT: Mr. Molloy*** (1)
371 ***ABSTAINED:*** (0)
372

373 ***This motion is approved.***

Adjournment

376 Mr. Saul moved to close the business session.

377 Mr. White seconded the motion.

378 The business session adjourned at 8:11p.m.

379
380 Chairman Byrnes opened the public hearing at 8:11p.m.

Council Update

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383 **Lee Ann Bissmeyer, Vice Mayor of Montgomery** reported on some recent City Council
384 information:

- 385
- 386 ▪ The City held the second reading of an ordinance to establish an excise tax, up to 3%, at
387 the Montgomery Quarter, for the new hotel. The third reading will be held on March 2.
388 She stated that this property will house 118 rooms. Based on room cost of \$200/night,
389 with a 3% tax, at full occupancy, this could bring in a potential \$258,000 per year of new
390 revenue. She noted that across the country, most hotels have an excise tax.
391 Ms. Bissmeyer suggested that Montgomery residents be exempt from this tax; it is being
392 looked into, from a legal view.
 - 393
 - 394 ▪ An agenda item for June 2 would be to authorize the City Manager into entering into a
395 contract with J.K. Meurer to continue the street resurfacing on sections of: Shadow Hill,
396 Deer Shadow, Laurel View, Cedar View, Weller, Kennedy and three sections of Zig Zag.
 - 397
 - 398 ▪ The General Assembly passed House Bill 51, which allowed the option for remote
399 meetings to continue until June of 2022. Governor Mike DeWine signed the bill. This
400 means that any public meeting in Ohio may offer remote options. She stated that the City
401 has the option, it is not official policy, as it was during COVID. Mr. Chesar stated that
402 the City was looking into the feasibility of this.

403

404 Chairman Byrnes asked why they don't show the Council meetings on cable TV.
405 Ms. Bissmeyer was unsure.

406

407 Chairman Byrnes asked who the builder would be for the condominiums in the Montgomery
408 Quarter. Mr. Chesar stated that he would email her, when the final builder was determined.

409

410 Mr. White asked about the Twin Lakes application – the lot across the street. Mr. Chesar stated
411 that Planning Commission approved it, and he believed that Twin Lakes might start building
412 later this spring or summer.

413

414 Chairman Byrnes asked if Twin Lakes purchased the Goodwill building. Mr. Chesar did not
415 believe so.

416

417 Ms. Mills Reynolds asked about the Indian Hill neighborhood that they are building – how close
418 will that be to Twin Lakes. Mr. Chesar stated that they have met all of their setbacks, and there
419 is the trail, as well, that has an easement. He stated that there is plenty of open space between
420 the two.

421

422 Mr. Uckotter asked if the Vintage Club had stopped construction. Mr. Chesar stated that he was
423 not aware of a problem with them building.

424

425 Mr. Uckotter asked how well attended the meetings on Saturday mornings have been, with the
426 Mayor. Ms. Bissmeyer stated that of the two meetings, no residents have attended.

427 Mr. Uckotter thanked them for doing this, and for being accessible to the public.

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428

429 Ms. Bissmeyer noted that the Montgomery Inn Outbuilding is finally being worked on and looks
430 so much better. She pointed out that they applied, and were approved for one of the Community
431 Grants, to help with the upgrades. They plan to use the building for storage.

432

433 **Minutes**

434 Mr. Saul moved to approve the minutes of January 25, 2022, as written.

435 Mr. Uckotter seconded the motion.

436 The Board unanimously approved the minutes.

437

438 **Adjournment**

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

440 The meeting adjourned at 8:25p.m.

441

442

443

444

445

446 _____
Karen Bouldin, Clerk

_____ Mary Jo Byrnes, Chairman

_____ Date

447

448 /ksb

449