

Board of Zoning Appeals Agenda

February 22, 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

Parcel ID 060300240367: Property owner, Jim E. Sluka, requests a variance to allow a new single-family dwelling to have a rear yard setback of 23' where 30' is the minimum required per Schedule 151.1005 of the Montgomery Zoning Code.

Agenda Item 2

8307 Turtlecreek Lane: Alan McCoy and Michelle McGee, property owners, are requesting a variance to allow a driveway to be setback 2'6" from the side property line, where a 5' setback is required per Section 151.3211 of the Montgomery Zoning Code.

Agenda Item 3

7960 Remington Road: A request from Jim Sykes and Ann Henry to allow 80 square feet of a proposed attached single-family dwelling to have a setback of 25' from the western side property line when 30' is required per Schedule 151.1009(3)(a) of the Montgomery Zoning Code. Additionally, the property owners are requesting side yard variances of 0' regarding their internal lot line when 30' is required per Schedule 151.1009(3)(a) of the Montgomery Zoning Code as it pertains to the shared common wall of the attached single-family structure.

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

CITY OF MONTGOMERY BOARD OF ZONING APPEALS

Application for Variance: *James E. Sluka*
Parcel ID 060300240367 - Hightower Court

February 22, 2022
Staff Report

Applicant: James E. Sluka
4041 Ledgewood Drive #2
Cincinnati, Ohio 45229

Property Owner: Same as above

Vicinity Map:



Nature of Request:

The applicant is requesting a variance to allow a new single-family dwelling to have a rear yard setback of 23' where 30' is the minimum required per Schedule 151.1005 of the Montgomery Zoning Code.

Zoning:

The property is zoned 'C' Single and Two Family Residential. The property to the north is zoned 'C' with a single-family residence. The properties to the south and west are zoned 'C' with two family

residential buildings. The properties to the east are within the Township and contain single family residences.

Findings:

1. The lot has an irregular shape. The north side property line is 112.55' in length (lot depth) and the south side property line is approximately 97.1'. With the 30' rear setback and 50' front setback, the buildable depth at the south side yard setback line is 17.1'.
2. The lot is 0.276 acres or approximately 12,023 square feet and is slightly over the 12,000 square foot minimum required in the 'C' District.
3. The lot was previously denied a 12' variance from the 30' rear yard setback in July of 2006 for a new two-family residence.
4. The lot was previously granted a 1.5' variance from the 50' front yard setback and a 4.5' variance from the 30' rear yard setback in September of 2006 for a new two-family. The duplex was never built, 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 layout of the entire Hightower subdivision is unusual, with lots of varying sizes and setbacks. There is a large electric transmission line that runs through the subdivision which does not directly impact this lot; however, it probably explains the layout and why lots #1, 2, & 3 have a shallow depth. In its absence, the road could have been re-aligned to the west and provided greater depth to the lots on the east.

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

The applicant will not be able to build on the lot without a variance of some level, as the building envelope is extremely narrow.

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

The variance from the required rear yard setback is substantial as the applicant is requesting a 23% reduction in the setback requirement. However, the rear property line runs at angle and the proposed rear yard setback distances vary from 29.4' down to 23'. In addition, the home most impacted by this rear yard setback variance request would be 9245 Kemper Road, which has a rear yard setback of approximately 46'.

While the request is substantial, Staff is of the opinion that this may be the minimum necessary to place a single-story home on the lot while still meeting the front and side yard setback requirements. Approximately 362.47 square feet of the structure would encroach into the rear yard setback area.

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

Staff does not believe the character of the neighborhood would be substantially altered by granting the variance. The first three lots along the east side of Hightower Court are shallower than the other lots within this subdivision. The applicant is proposing to meet the 50' front yard setback requirement which will align with the neighboring houses on the east side of Hightower Court, providing for a consistent street wall.

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

Delivery of governmental services would not be impacted by granting the variance.

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

The property owner has stated that they were not aware of the zoning restraint at the time of purchase.

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

No special conditions exist as a result of actions of the owner.

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

The applicant may be able to build a two-story single-family home to reduce the footprint and decrease the setbacks required; however, the applicant has stated that a two-story house would not meet his needs. The applicant is requesting a modest size three bedroom, two-and-a-half-bathroom house with a required two car garage.

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

This parcel is unusual in its dimensions and does create a practical difficulty in creating a new single-family dwelling. The amount of variance being requested is small. A precedent would not be set, as the house two doors to the north at 10206 Hightower Court has rear yard setback of approximately 4'. In addition, front yard setback variances were granted in 1986 for 10213, 10217 and 10223 Hightower Court.

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

As mentioned above, the overall subdivision layout on Hightower Court consists of varying lot sizes and dimensions, creating challenging building envelopes to build within. Many of the homes are either legal non-conforming in setbacks or have received setback variances when they were originally built.

Staff Comments and Recommendations

The lot has peculiar dimensions which create a practical difficulty. Staff is of the opinion that the applicant has proposed a plan which attempts to mimic the unique shape of the lot by placing the widest portion of the house to the north and the narrowest portion to the south. The proposed house will also meet side and front setback requirements, which will allow for the street wall to be maintained. Staff does not believe granting this variance would negatively impact the neighborhood, as many the lots within the subdivision differ in size, dimensions, and layout.

Staff believes that the variance to allow the proposed new single-family residence to have a rear yard setback of 23' where 30' is the minimum required and in accordance with the site plan dated 1/20/2022 would be justified by criteria numbers 1-10.

APPLICATION FORM

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

Project Address (Location): Part lots 2 & 3 (See Exhibit A)
Plot is between 10212 Hightower Court and 10220 Hightower Court
Project Name (if applicable): _____ 45249

Auditors Parcel Number: 603-24-367

Gross Acres: .2761 (Lots/Units) one Commercial Square Footage -

Additional Information: The home will be 2093 sq. feet
See History and Background of my lot.

PROPERTY OWNER(S) James E. Sluka Contact Jim Sluka
Address 4041 Ledgewood Drive #2 Phone: (513) 295-8888
City Cincinnati State OH Zip 45229
E-mail address Jesluka0422@gmail.com

APPLICANT James E. Sluka Contact _____
Address _____ Phone: _____
City Same as above 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 James E. Sluka
Print Name James E. Sluka
Date 1/6/22 (Jim)

FOR DEPARTMENT USE ONLY

Meeting Date: Jan. 25, 2022
Total Fee: 300.00
Date Received: 1-6-2022
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 Part Lots 2 & 3
Between 10212 Hightower Ct. and
10220 Hightower Ct.
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

Date

James E. Sluka
James E. Sluka (Jim)
1/6/22

Board of Zoning Appeals Members:

Mary Jo Byrnes
Tom Molloy
Bob Saul
Steve Uckotter
Richard White
Peter Fossett
Jade Stewart

Mr. James E. Sluka
4041 Ledgewood Drive #2
Cincinnati, Ohio 45229

January 2, 2022

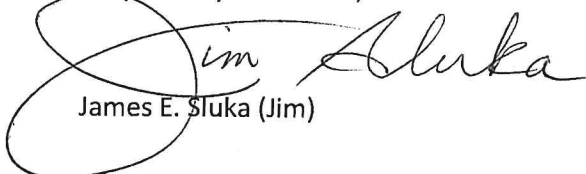
City of Montgomery Board of Zoning Appeals Members and Staff
City Hall
10101 Montgomery Road
Montgomery, Ohio 45242

Dear City of Montgomery Board of Zoning Appeals Members and Staff,

In applying for variance approval, I knew I was taking a risk. So, I do not come to you thinking that it is a foregone conclusion that you will approve the variances that I am requesting. But, of course, I am hopeful that you will. I believe it is necessary to present variance requests that are reasonable as excessive variance requests would be a waste of our time. With these thoughts in mind, before proceeding with my project, I talked with my Financial Planner, and he felt my investment would be better served by building a home on the lot rather than trying to sell it. I had told him I had offers for \$20,000 and \$40,000 when the lot had been appraised for \$80,000 in 2008. I also thought it would be a good idea to talk with Melissa Hayes, Zoning Administrator for the City of Montgomery. I showed her my proposed variances (See Exhibit D), as I had mapped out on graph paper a Ranch plan to present to my Architect. Of course, she could not approve anything, but, I asked for her thoughts as to what I was suggesting. She felt that the variances I was seeking were the bare minimums for a Ranch plan and seemed reasonable. So, based on her professional opinion and every aspect carefully weighed, I decided it was worth taking a chance and the expenditure of money to proceed in developing a plan with my Architect. We painstakingly evaluated every room size and cut every corner that we could in the design stage - realizing that we had to be cautious and conservative in every detail. I understood that I could not have everything I wanted because of the restrictions of my lot. My Architect was hesitant to proceed as he doesn't like to design homes needing variances. He questioned me at several points, and, before he finished the plan, I went to Melissa's office again, to see what she thought about our developing plan. She looked at the plan, and, again thought we were asking for the bare minimum for a Ranch plan, and the lay-out seemed reasonable. After her positive response, my Architect completed the design.

The answers to the Application questions will delineate other factors involved in asking for the variances shown on the Surveyor's stamped "Proposed Zone Variance" Plan (See Exhibit F). In every way, we were as conservative and reasonable as possible in designing this home. We believe we asked for the bare minimum in trying to design a quality and functional ranch home without going over the top. Because of the odd-shaped and irregular lot and severe restrictions of my lot, I am hopeful that the variances I have requested will be approved. I am open to suggestions if you feel the variances I have suggested are unreasonable. Thank you for your time and consideration.

Respectfully submitted,


James E. Sluka (Jim)

HISTORY AND BACKGROUND OF MY LOT

(in the following information, my directional indications are as if I was standing on the street looking at my lot)

I've owned this property since 1999, and, at that time, it consisted of 20,000 square feet of land. I had Schmidt Builders build the home at 10212 Hightower Court (the two-story home to the left). I always knew that I would build another home next to me, to the right, so Schmidt Builders placed my home at the farthest point to the left of the property. My next door neighbors to the left, Dale and Carol Adkins, wondered why I had not placed the home more in the center of the lot as they were hoping to have more distance between our homes. They ended up putting a row of Arborvitaes between our homes for privacy. I also mentioned to them that I would be building another home or two-family home on the lot, once I acquired more property. I went through a very arduous process to add 4,000 square feet of land to the property – making a total of 24,000 square feet of land. Because this particular street only requires 12,000 square feet for a buildable lot, I then subdivided the lot into two 12,000 square foot lots. I paid my neighbor for the extra land I had supposedly bought from him, but, he sold his Condo without deeding the property to me, for some unknown reason. The neighbor filed bankruptcy and never paid me back the money he owed me. This action necessitated me having to buy the additional property I needed from the people who bought his Condo for over double the amount I had originally paid.

Since I have owned the extra 12,000 square foot lot, I have hired Architects to design a two family, and several two-story plans. However, in each case, my life circumstances, jobs and family responsibilities have prevented me from building my home. Then, something sad happened that would ultimately change the direction that my planning would go. I had an identical twin brother, who passed away in 2016, who had just bought a beautiful home in Atlanta, GA with an absolutely gorgeous 2nd floor Master. He was not able to use it because his Prostate Cancer got progressively worse and took his life. He had no bedrooms on the first floor. This example underscored very personally to me the fact that we never know when physical difficulties will overtake our lives and cause changes in our living conditions. As a result, I made a firm decision that I would build a Ranch plan on my lot.

As you might guess, I have put considerable time and effort into this investment, having paid taxes and had the lawn mowed for 21 years, plus the Architects' and Surveyors' fees. However, this project has been ongoing as I have had several Architects design a 2 family structure and 2 story plans. As mentioned above, because of my life circumstances at present, a Ranch plan is my goal. My Architect is from Nashville, TN, who is the husband of my daughter's best friend.

SLUKA HOUSE PROJECT - APPLICATION QUESTIONS

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.
 - My lot is a very irregular lot with a very severe angled back boundary – from left to right the depth ranges from 30.93' to 18.17'. (See Exhibit E). As a result, very few house plans will fit on this lot creating a need for a custom design. Variances are needed for even a basic Ranch plan to have at least one extra bedroom on the first floor for my family, friends and senior overnight guests.
 - The other side of the street does not have a utility easement of ten feet, therefore, they only have a 50 foot setback requirement. Because my lot has a ten foot utility easement, my setback requirement is 60 feet. Having that extra ten feet would have made this meeting unnecessary, and considerable time and expense would have been saved.
2. Will the property yield a reasonable rate of return if the variance is not granted?
 - I have tried to sell my lot several times, and was offered very low amounts of \$20,000 and \$40,000. It had been appraised in 2008 for \$80,000. So, I decided that my investment was more profitable by building a home on it.
 - If the variance is not granted, I will have to tweak the present plan or start over with another one.
3. Is the variance substantial? Is it the minimum necessary?
 - The variances I'm requesting are minimal for a basic Ranch plan and very reasonable. My main rooms are pretty basic sizes.
 - a. The Guest Bedrooms are 11' x 11'. (I've never had bedrooms this small)
 - b. The Family Room is about 16' x 14' – without a variance, it would be smaller, which would make it the size of a bedroom.
 - c. The Dining Room is a conservative 10' x 14'.
 - d. The Master is 13' x 15' – a nice size, without being extravagant.
 - e. I asked my Designer to incorporate basic amenities into the plan that I don't necessarily need but would be good for re-sale, such as a jack and jill bathroom, door from a guest room out to the patio and a nice sized pantry, etc.
 - f. Considering future development on the street, and wanting to fit in with the City of Montgomery Community standards, this plan has been very thoughtfully and carefully designed to be conservative, but yet functional. It has everything, but a formal Dining Room, which, a lot of people these days are not including in their plans.

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

- The ambiance of my home and the curb appeal it will provide, will substantially enhance the neighborhood. I believe it will be a stimulus for future development and renovation.
 - a. As you are aware, Zian homes has conceptionally designed two Townhomes at 10209 and 10211 Hightower Court. My home would add to that development, and, other properties will follow suit when the time is right.
- I haven't taken a survey, but in the past I have talked to homeowners on the street (some of whom were my former neighbors) who have said that they would really like to see a home on the lot rather than have it empty. I believe it completes the street.
- Of course, the City of Montgomery will enjoy the extra income from taxes 😊

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

- The variance would NOT affect the delivery of government services in any way.

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

- I bought this property in 1999. My original lot was 20,000 square feet. My original intent was always to buy 4,000 additional square feet of land, subdivide the 24,000 square feet into two lots and build another home or two family on the lot. At the time, I was not aware of all of the intricacies of building a home, lot restrictions and setbacks. I just thought that if I purchased a lot, I could build a home on it. Once I got involved in the process, I found out that there were many details to be considered that I really wasn't aware of when I bought my property. Would I do it again? That's a tough question to answer because of the hundreds of hours invested in this project. I probably would not do it all over again because of the complexity of the project and all the hassles I've encountered – plus the enormous time and energy it has taken. But, now that I've expended so much time in the project, I want to succeed in building my home.

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

- My lot was already odd shaped and irregular to begin with. I didn't change anything.

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

- I would like to "age in place", and a two-story does not meet my needs.
- Because I am 21 years older, my needs have changed. I simply don't have the time or energy to build a "market" home on my lot and, with the proceeds, buy another lot which does not have the extreme setback restrictions AND go through the process again.

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

- None of my variances extend past the 30 foot depth marker that I am allowed at the left end of my property.
- Most people view lots as more rectangular versus angled, so they wouldn't even notice a variance had been granted unless they knew the size of the lot.
- 45 feet of my house is between the two homes in the back of my lot.
- Since I'm allowed 5 feet and 1 ½ feet encroachments for the stairway and fireplace respectively, these factors minimize the effect of the variance.
- The variances would hardly be noticed because of the bushes in the back yard (and/or a privacy fence that I will be putting on the back of my property).
- The street, being an older street in Montgomery, is ripe for development. A well-designed ranch home would be a very desirable addition.
- I believe this is a win-win for the neighborhood and me. I get a nice home, and I give back to the neighborhood a beautifully designed and well-crafted home that will enhance its surroundings and inspire future development.

10. I am not privy to other people who have been denied their requests for variances, but, as I have driven around the city of Montgomery, I see unusual situations that don't really enhance the neighborhood, such as front yard footages that are close to the street, etc. Of course, I don't know how the zoning requirements are determined for each neighborhood.

Overall, based on the design of my future home and its elevation, I believe that no one would even suspect a variance had been granted. As mentioned before, I believe my home will be an enhancement to the neighborhood and cause property values to increase PLUS, maybe start some new development on the street.

- **Exhibit A** -

DESCRIPTION ACCEPTABLE
HAMILTON COUNTY ENGINEER.

EXHIBIT "A"

Tax Map - 2/21/02 R
CAGIS - _____

LEGAL DESCRIPTION
For JAMES & DAVID SLUKA
PART LOTS 2 & 3 (0.2761 ACRE)

Situated in Section 29, Town 5, Fractional Range 1, Symmes Township, City of Montgomery, Hamilton County, Ohio, and being part of Lots 2 & 3 of the Hightower Estates Subdivision, as recorded in P.B. 203, Pg. 83, Recorders Office, Hamilton County, Ohio, and being more particularly described as follows:

Beginning at a 5/8" iron pin set (capped) in the easterly right-of-way line of Hightower Court (50 foot right-of-way), said point lying N02°42'51"W, along said right-of-way line, a distance of 74.17 feet from the southwest corner of said Lot 2 and northwest corner of said Lot 3, said point being the Point of Beginning;

Thence, from said Point of Beginning, departing the aforesaid right-of-way line with a new division line through the aforesaid Lot 2, N87°17'09"E, a distance of 112.55 feet to a 5/8" iron pin set (capped) in the easterly line of the aforementioned Lot 2;

Thence, along the easterly lines of Lot 2 and Lot 3, S04°57'15"W, passing a 1/2" iron pin found (capped) at the southeast corner of Lot 2 and the northeast corner of Lot 3 at a distance of 74.84 feet, a total distance of 115.79 feet to a 1/2" iron pin found (capped);

Thence, departing said easterly line of Lot 3 with a division line through said Lot, S87°17'09"W, a distance of 97.10 feet to a 1/2" iron pin found (capped) in the easterly right-of-way line of Hightower Court;

Thence, along said right-of-way line, N02°42'51"W, passing a 1/2" iron pin found (capped) at the southwest corner of Lot 2 and the northwest corner of Lot 3 at a distance of 40.58 feet, a total distance of 114.75 feet to the Point of Beginning.

Containing 7,977 square feet of land within said Lot 2 and 4,051 square feet of land within said Lot 3, totaling 12,028 square feet of land, which is 0.2761 acre, being subject to all legal highways, right-of-ways, easements, covenants and / or restrictions of record.

Being part of the same premises conveyed to James E. and David Sluka in Official Record Book 10202, Page 2742, Recorder's Office, Hamilton County, Ohio and all of the same premises conveyed to James E. and David Sluka in Official Record Book 10443 Page 2748, Recorder's Office, Hamilton County, Ohio.

Being the result of a field survey and plat dated February 5, 2007, made under the supervision of Kevin J. Richardson, P.S., Registration No. 8011 in the State of Ohio.

Richardson Surveying

10921 Reed Hartman Highway, #114 • Cincinnati, Ohio 45242 • Voice: 513.297.4925 • Fax: 513.297.4926

21 603-24-367

11283 2191

10478 2114

11986 1652

- Exhibit B -

Exhibit "B"

The Trustee is authorized and empowered with respect to any property, real or personal, to assign, borrow, buy, care for, collect, compromise claims, contract with respect to, continue any business of the Trust, convey, convert, deal with, dispose of, enter into, exchange, hold, improve, incorporate any business of the Trust, invest, lease, manage, mortgage, hypothecate, encumber, grant and exercise option with respect to, take possession of, pledge, receive, release, repair, sell, convey, sue for, guarantee the obligations of the Trust, make distributions in cash or in kind or partly in each without regard to the income tax basis of such asset, all for and in behalf of the Trust.

REC'D FOR TRANS

4

- Exhibit C -

2012 APR -6 PM 10:39

DUSTY BODES
AUDITOR
HAMILTON COUNTY OHIO

NON-CONFORMING DOCUMENT
ADDITIONAL RECORDING FEE
(ORC §17.114)

Wayne Coates
Hamilton County Recorders Office
Doc #: 12-0044457 Type: AFF
Filed: 04/09/12 10:49:56 AM \$44.00
Off.Rec.: 11986 01650 F L24 4 384

1198601650Fb

AFFIDAVIT OF TRUST

STATE OF KENTUCKY, COUNTY OF CAMPBELL, SS:

James E. Sluka, Affiant herein, after being duly cautioned and sworn, states as follows:

1. That this Affidavit of Trust is made and executed this 30 day of March, 2012 by James E. Sluka, Trustee of the Hightower Revocable Trust Agreement, dated 3/30/12 (the "Trust Agreement").
2. The name and address of the Grantor of the Trust created under this Trust Agreement is:

James E. Sluka
10555 Montgomery Road, Unit 1
Cincinnati, Ohio 45242
3. The name and address of the Trustee of the Trust created under the Trust Agreement is:

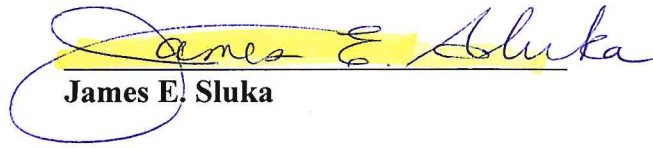
James E. Sluka
10555 Montgomery Road, Unit 1
Cincinnati, Ohio 45242
4. The Trust Agreement was executed by the Grantor and the Trustee on March 30, 2012.

11986 1650

- Exhibit C₂ -

- 5. The real property described below described in Exhibit "A" attached hereto and made a part hereof is subject to the Trust created by the Trust Agreement.
- 6. The provisions of the Trust Agreement which set forth the powers specified in the Trust Agreement relative to the acquisition, sale or encumbering of real property by the Trustee, and any restrictions upon those powers, are set forth in Exhibit "B" attached hereto and made a part hereof.

Further Affiant sayeth naught.


James E. Sluka

Sworn to and subscribed before me a notary public in and for said county and state this 30 day of March, 2012 by James E. Sluka

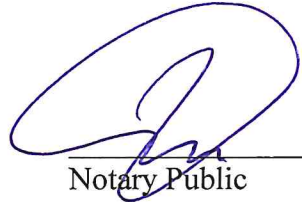

Notary Public
ublis

Exhibit D

Suggested Variance Allowances

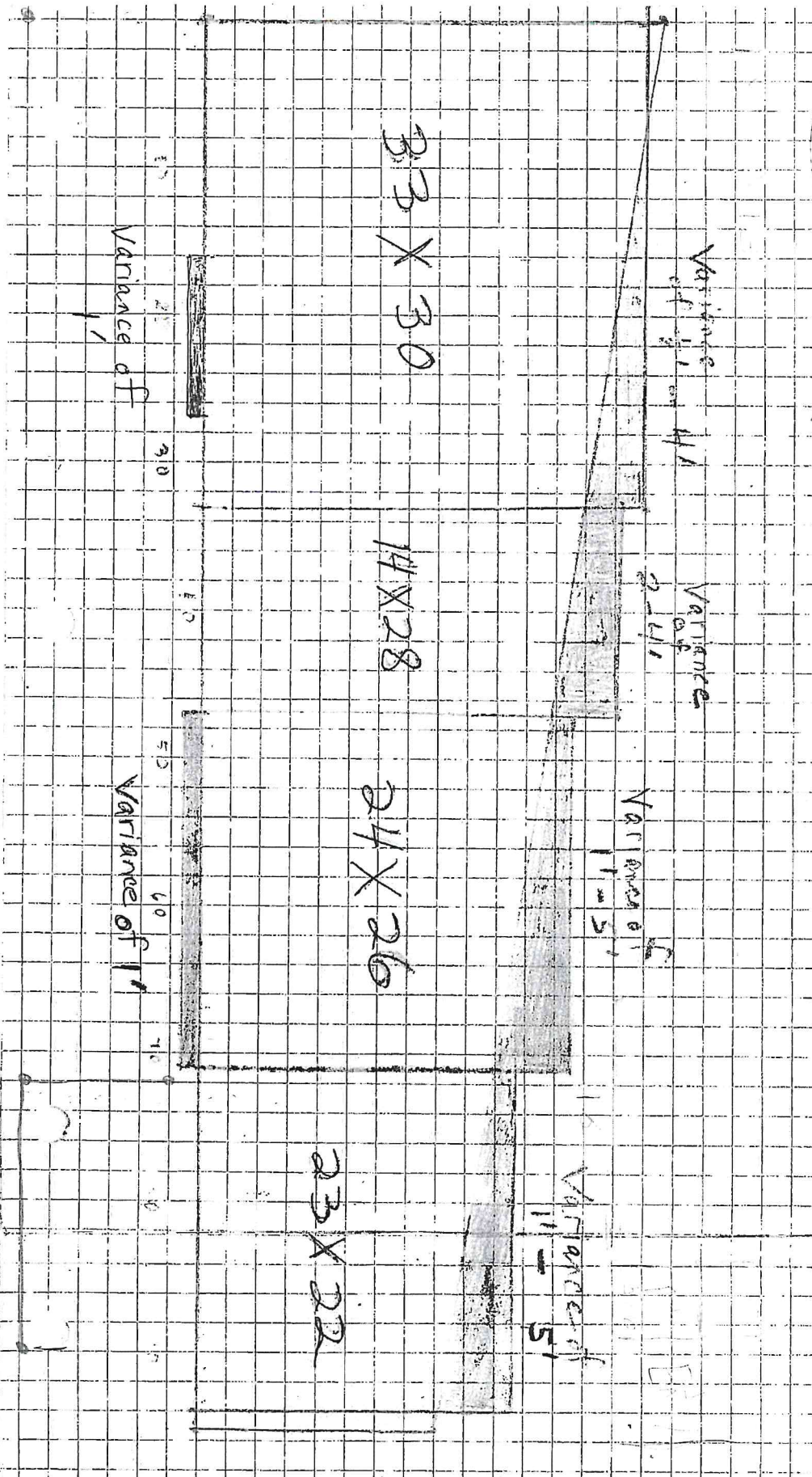


Exhibit E

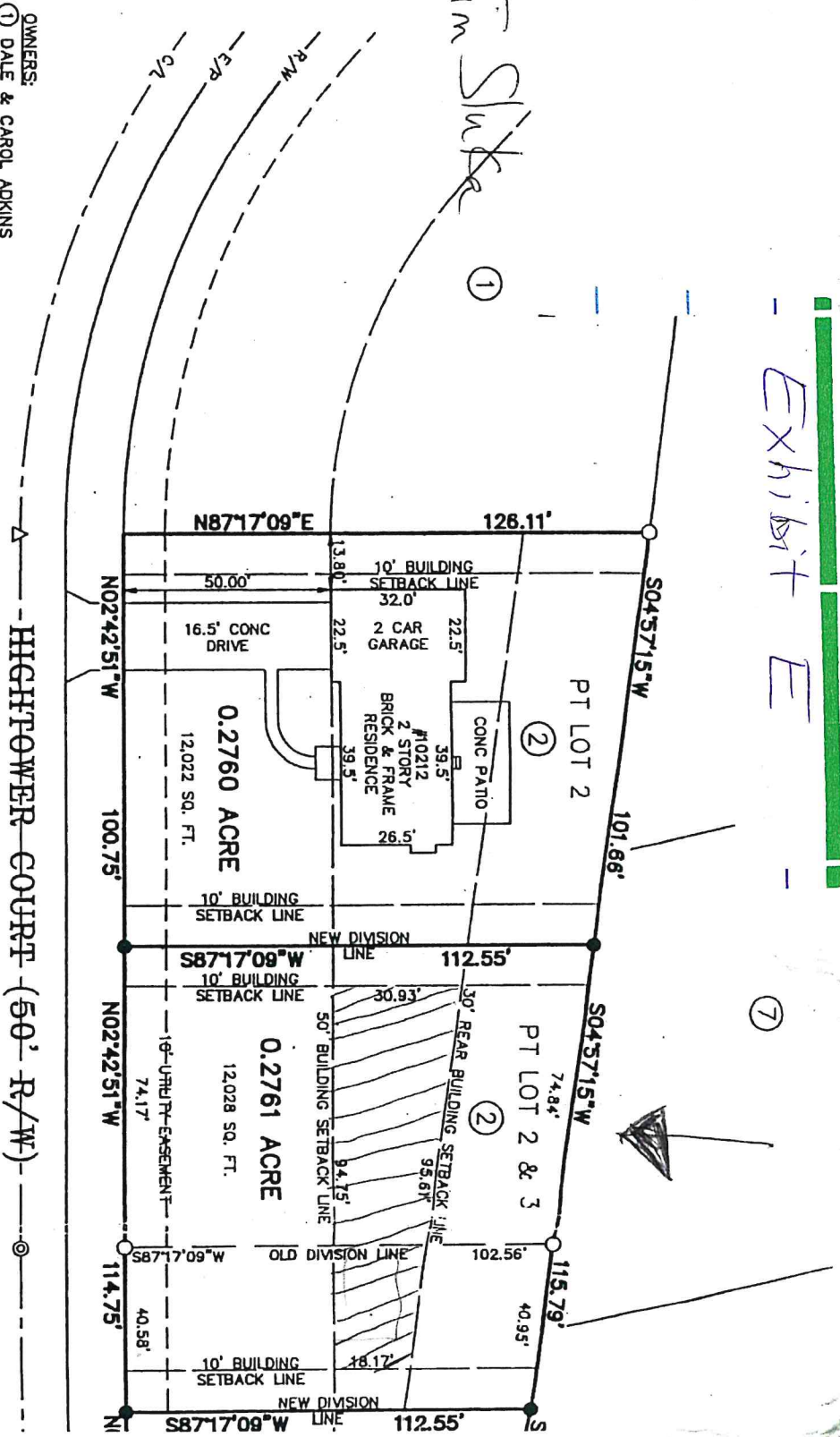
To:

From: Jim Sluka

NOTE:
 Here's the
 lot we're
 working
 with.

Talk to
 you soon.

Jim Sluka



- OWNERS:
- ① DALE & CAROL ADKINS
D.B. 4292, PG. 1946 O.R.
 - ② JAMES E. & JOCELYN A. SLUKA
D.B. 8156, PG. 2885 O.R.
 - ③ STEVE M. RECKERS
D.B. 7519, PG. 637 O.R.
 - ④ RAVI KUMAR & SERENA K. KURUMETTY
D.B. 8360, PG. 278 O.R.
 - ⑤ PHILIP MARC & KIRA USA NOVICK
D.B. 6443, PG. 888 O.R.
 - ⑥ KATHLEEN R. LARSON
D.B. 6285, PG. 712 O.R.
 - ⑦ LINDA L. STRAWSER
D.B. 8036, PG. 2014 O.R.
 - ⑧ DENNIS J. & CAROLYN M. KOSSEN
D.B. 4413, PG. 1537 O.R.

SURVEYORS NOTES:

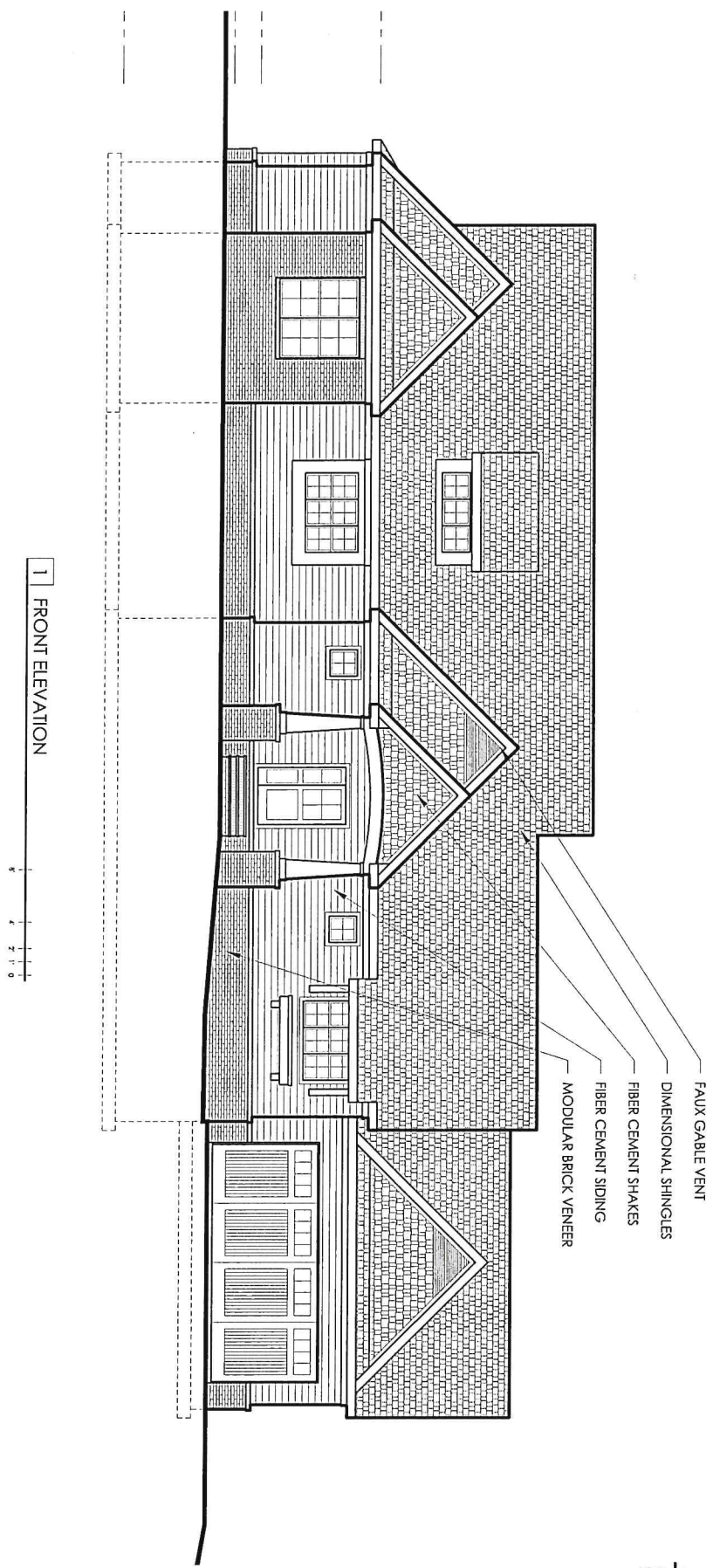
NORTH DIRECTION AND BEARING SYSTEM BASED UPON HIGHTOWER
 ESTATES SUBDIVISION AS RECORDED IN PLAT BOOK 203, PAGE 83,
 RECORDS OF THE RECORDERS OFFICE, HAMILTON COUNTY, OHIO, IN
 THIS FIELD SURVEY BY KEVIN RICHARDSON, REG. SURVEYOR NO. 8011
 IN THE STATE OF OHIO, ON SEPTEMBER 28, 2002.

- LEGEND:
- 1/2" IRON PIN SET (CAPPED)
 - 1/2" IRON PIN FOUND (CAPPED)
 - NAIL FOUND
 - ▲ RAILROAD SPIKE FOUND



PLAT OF SURVEY
 for JAMES E. & JOCELYN A. SLUKA

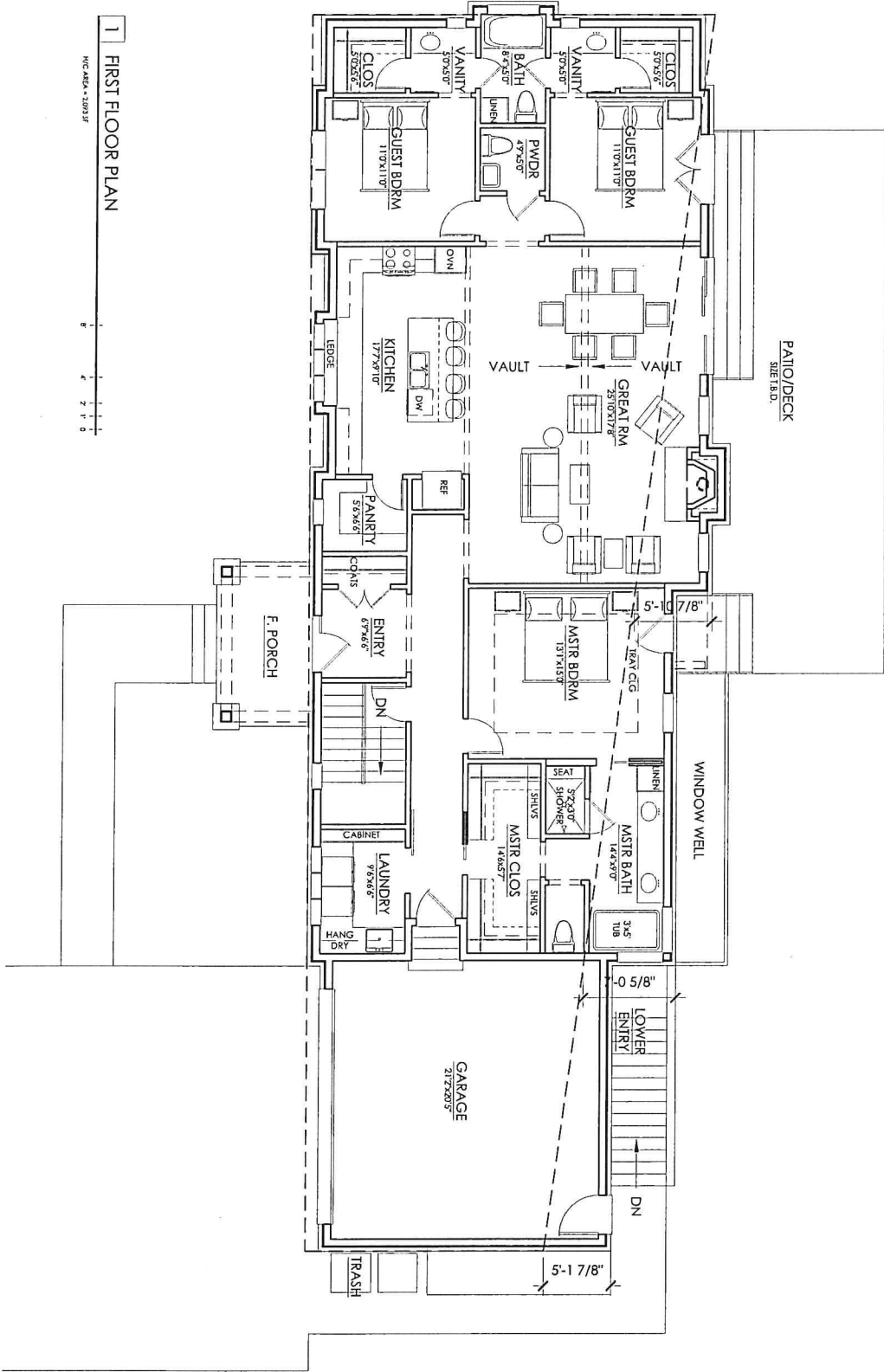
- Exhibit G -



SLUKA RESIDENCE
HIGHTOWER CT
CINCINNATI, OH
2021-DEC-30

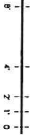
 rob
McKELVEY
architect

Exhibit H



1 FIRST FLOOR PLAN

MC-MDLA - 12/21/11



SLUKA RESIDENCE

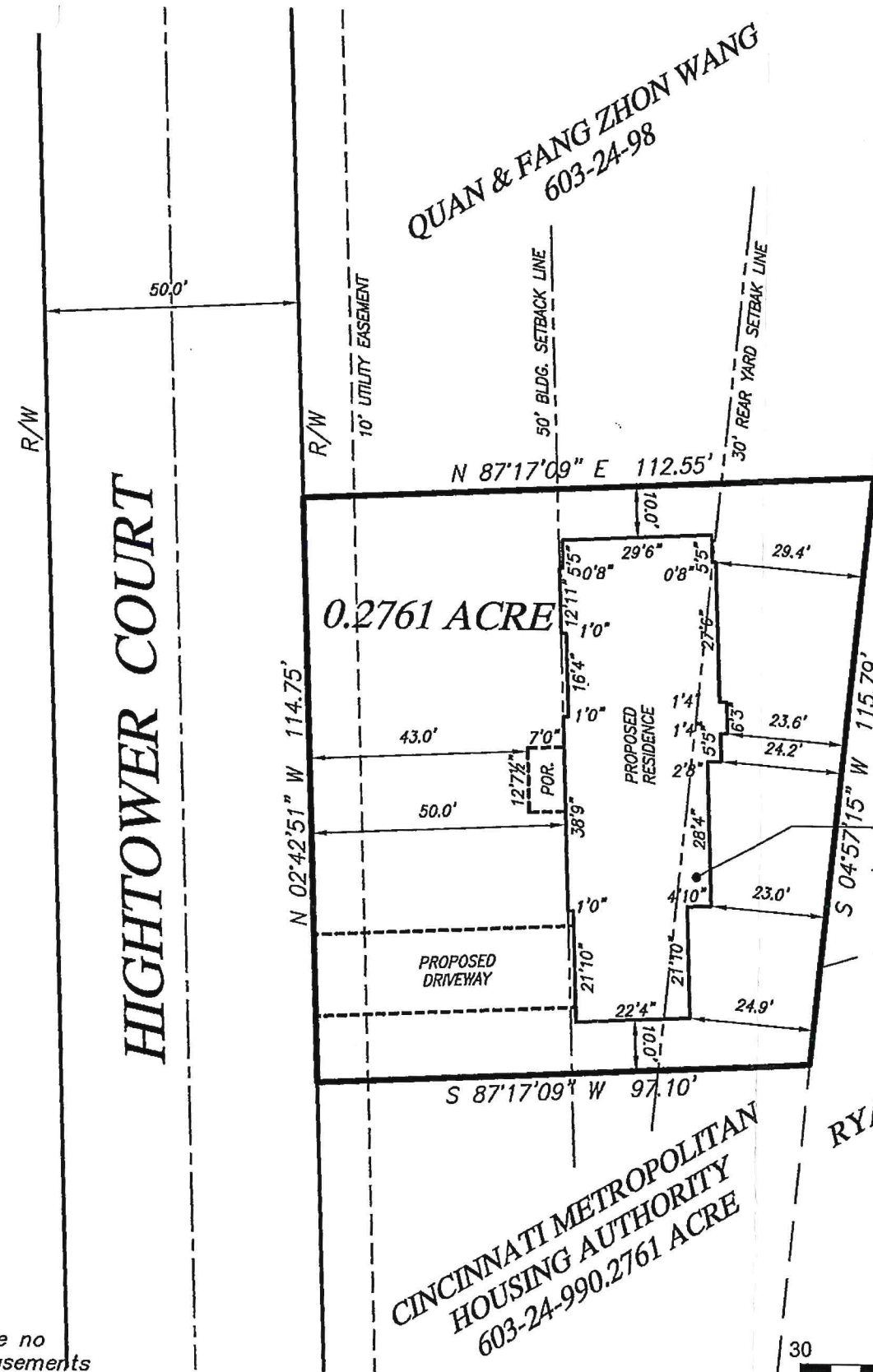
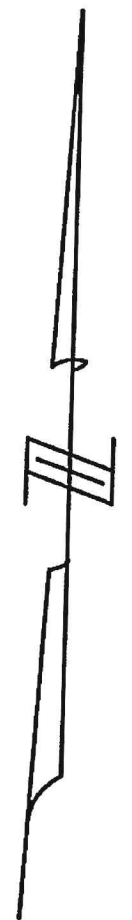
HIGHTOWER CT
CINCINNATI, OH
2021-DEC-30



rob
McKELVEY
architect

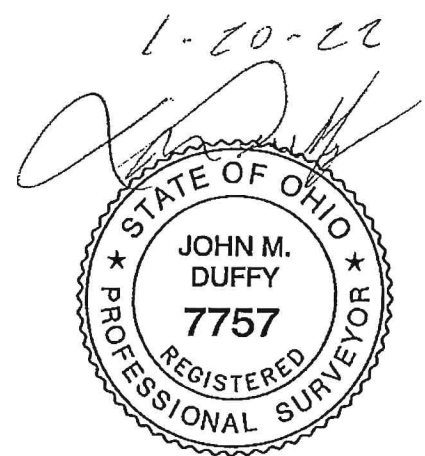
Exhibit F

PROPOSED ZONING VARIANCE
PT. LOTS 2 & 3 OF
HIGHTOWER ESTATES SUBDIVISION
SECTION 29, TOWN 5, F. RANGE 1
SYMMES TOWNSHIP
CITY OF MONTGOMERY
HAMILTON COUNTY, OHIO



MATTHEW B. & NICOLETTA
TRENT
620-170-4727

RYAN J. WERNER
620-170-22



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



Scale 1" = 30'

JOHN J. DUFFY & ASSOCIATES, INC.
ENGINEERS-SURVEYORS
4838-E DUFF DRIVE CINCINNATI, OHIO 45246
(513) 874-1811 Email: jjduffy@fuse.net

SCALE: 1"=30'	DRAWN: M.C.F	CHECKED: JMD
DATE: 1-04-22		JOB NO.:21-175

CITY OF MONTGOMERY BOARD OF ZONING APPEALS

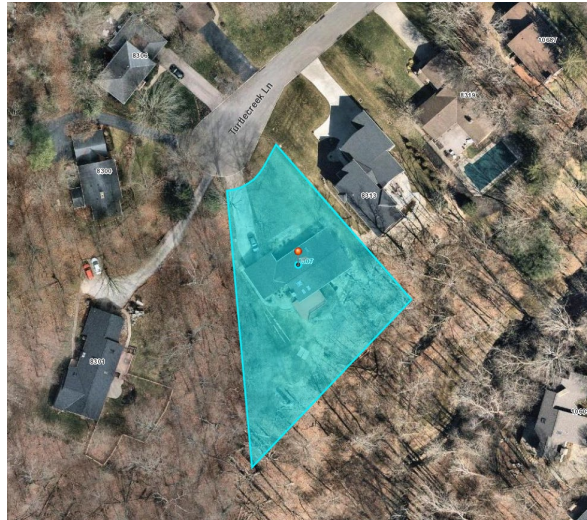
Application for Variance: *Alan McCoy and Michelle McGee*
8307 Turtlecreek Lane

February 22, 2022
Staff Report

Applicant: Alan McCoy and Michelle McGee
8307 Turtlecreek Lane
Cincinnati, Ohio 45229

Property Owner: Same as above

Vicinity Map:



Nature of Request:

The applicant is requesting a variance to allow a driveway and walk area to be setback 2'6" from the side property line, where a 5' setback is required per Section 151.3211 of the Montgomery Zoning Code.

Zoning:

This property is zoned 'A' - Single Family Residential and is used for a single family residence. The properties to the north, south, east and west are also zoned 'A' single family residential and used for single family residences.

Findings:

1. The lot is located at the end of a cul-de-sac and is .53 acres which meets the 20,000 square feet minimum lot size.
2. The applicant is requesting to widen the driveway, including the area closest to the garage door, as well as the sidewalk connected to the driveway running alongside of the house.
3. The distance from the side property line varies from a 5' setback to a 2'6" setback at the nearest point.
4. The widest portion of the driveway is located in front of the 2-car garage door and is 21' 3".
5. The nearest driveway located to the west, is approximately 18' away at the front property line.

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 existing driveway is located along the southwest side of the lot adjacent to an existing large oak tree. With the lot being located at the end of a cul-de-sac, it is pie shaped, and has a street frontage of approximately 60'.

- 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, as there is an existing driveway which is able to access the attached garage.

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

Staff believes the variance is not substantial and the applicant is requesting the minimum necessary to shift the driveway away from the existing trees. The applicant is seeking to shift the driveway over some to prevent tree roots from pushing up the driveway in the future.

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

Staff is of the opinion that the neighborhood would not be substantially altered by granting the variance, as the neighboring driveway is a significant distance away. In addition, this lot is located at the end of a cul-de-sac and is a pie shaped lot; therefore, there is no consistency with driveway placement along this stretch of Turtlecreek Lane.

- 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?*

Staff is of the opinion that the property owner purchased the property without the knowledge of the zoning restraint.

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

Staff is of the opinion that no special conditions exist as a result of the homeowner with regards to the existing driveway placement.

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

Staff believes the owner's predicament can be feasibly obviated by replacing the driveway in the same location. However, the applicant has stated that the existing driveway has been damaged by tree roots, and they are attempting to prevent that from occurring in the future by shifting the driveway over slightly.

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

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

Staff is of the opinion that the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance, as the proposed driveway and attached sidewalk area are located a substantial distance from any neighboring driveway. There is a significant amount of area to allow for proper drainage.

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

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

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

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

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

A variance was granted for a property at 9073 East Kemper Road in August 2006 to allow the property owner to expand the turning area for an existing driveway. The turning area was

permitted to be 2' from the side property line. In the motion, the Board stated that they believed the applicant had a special circumstance due to poor visibility exiting onto a Class 2 road (E. Kemper Road). The Board also granted a variance of 0.5' to allow for the driveway apron to be 4.5' from the side property line.

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

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

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

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

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

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

Staff's opinion

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

Staff Comments and Recommendations

Staff believes that the variance request is reasonable and would not be detrimental to the surrounding properties or the character of the neighborhood, as there is a significant amount of distance between existing driveways. A practical difficulty has been established, as there are existing trees located in the front yard limiting the placement and width of the driveway, and the driveway is located along an existing cul-de-sac. In addition, the large separation between driveways will allow for proper drainage.

Approving the variance to allow a driveway and attached walkway setback of 2'6" where a 5' is required, in accordance with the site plan dated 1-24-2022, could be justified by criteria # 1, 3, 4, 5, 6, 7, 8, 9, and 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): 8307 Turtlecreek Lane

Project Name (if applicable): _____

Auditors Parcel Number: 603-0023-0152-00

Gross Acres: 0.5301 (Lots/Acre) 10 Commercial Square Footage —

Additional Information: _____

PROPERTY OWNER(S) Alan H. McCoy TR
Michelle M. McGee TR Contact _____

Address 8307 Turtlecreek Lane Phone: 513-312-3895

City Montgomery State OH Zip 45242

E-mail address mccoy@cinci.rr.com

APPLICANT Alan McCoy & Michelle McGee Contact _____

Address 10607 Merrick Lane Phone: 513-312-3895

City Montgomery State OH Zip 45242

E-mail address mccoy@cinci.rr.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
Alan H. McCoy TR Michelle M. McGee TR FOR DEPARTMENT USE ONLY

Print Name
Alan H. McCoy TR Michelle M. McGee TR

Date 01.25.2022

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 8307 Turtlecreek Lane
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 Alan H. McCoy JR Michelle M. McBee TR
Print Name Alan H. McCoy TR Michelle M. McBee TR
Date 01.25.2022

Board of Zoning Appeals Members:

Mary Jo Byrnes
Tom Molloy
Bob Saul
Steve Uckotter
Richard White
Peter Fossett
Jade Stewart



JILL A. SCHILLER
HAMILTON COUNTY TREASURER

Dear Fellow Taxpayer:
Please note that all tax levies approved by voters in 2021 are reflected on this tax bill.

For the convenience of taxpayers, the Treasurer's Office will be open for extended hours on the due date of January 31, 2022—7:30 a.m. to 5:30 p.m.

Also remember you can always communicate with the Treasurer's Office by using our web address: <http://www.hamiltoncountyohio.gov/treasurer>
...Jill A. Schiller, Treasurer

HAMILTON COUNTY REAL ESTATE TAX BILL: FIRST HALF 2021

BOOK PLAT PARCEL	PROPERTY OWNER	PROPERTY DESCRIPTION
603-0023-0152-00	MCCOY ALAN H TR & MICHELLE M MCGEE TR	TURTLECREEK 61.71 X 357.98 IRR LOT 10 WELLER WOODS 2ND SUB BLK A
TAXING DISTRICT/CLASS		
211 RESIDENTIAL		PAID 1/16/22

MARKET VALUE	ASSESSED VALUE (35% OF MARKET)	FULL TAX RATE (mills)	REDUCTION FACTOR	EFFECTIVE TAX RATE (mills)	NON-BUSINESS CREDIT ROLLBACK FACTOR
LAND 151,320	52,960	118.08	0.434686	66.752311	0.072575
BUILDING 233,680	81,790				OWNER OCCUPANCY CREDIT ROLLBACK FACTOR
TOTAL 385,000	134,750				0.018143

CALCULATIONS	
GROSS REAL ESTATE TAX	15,911.28
-REDUCTION FACTOR AMOUNT	6,916.40
-NON-BUSINESS CREDIT	652.80
-OWNER OCCUPANCY CREDIT	154.14
-HOMESTEAD	
HALF YEAR REAL ESTATE TAXES	4,093.97
-SALES TAX CREDIT	104.23
+CURRENT ASSESSMENT	3.68
+DELINQUENT ASSESSMENT	
+DELINQUENT REAL ESTATE	
HALF YEAR AMOUNT DUE	3,993.42
FULL YEAR AMOUNT	7,983.16
AMOUNT DUE BY 01/31/2022	3,993.42

TAX DISTRIBUTION: FIRST HALF	
SCHOOL DISTRICT	2,121.75
TOWNSHIP	
CITY/VILLAGE	803.62
JOINT VOCATIONAL SCHOOL	118.04
COUNTY GENERAL FUND	133.34
PUBLIC LIBRARY	109.32
FAMILY SERVICE/TREATMENT	16.94
HLTH/HOSPITAL CARE-INDIGENT	85.01
MENTAL HEALTH LEVY	82.04
DEVELOPMENTAL DISABILITIES	196.71
PARK DISTRICT	122.79
CRIME INFORMATION CENTER	8.30
CHILDREN SERVICES	211.10
SENIOR SERVICES	67.39
ZOOLOGICAL PARK	17.62

LAST DAY TO PAY WITHOUT PENALTY
Jan 31, 2022

* YOUR CANCELLED CHECK IS YOUR RECEIPT
* NORMAL OFFICE HOURS 8:00 A.M. TO 4:00 P.M. MON-FRI
* EXTENDED HOURS 7:30 A.M. TO 5:30 P.M. ON DUE DATES

January 24, 2022

Melissa Hays
Zoning and Code Compliance Officer
City of Montgomery
10101 Montgomery Road
Montgomery, OH 45242
Re: Dimensional Setback Variance Request For Driveway and Walkway Replacement

Dear Ms. Hays:

We have lived in Montgomery for more than 30 years at 10607 Merrick Lane in the Indian Woods subdivision. In 2019 we purchased the property at 8307 Turtlecreek Lane, which adjoins our Merrick Lane back property line, as a speculative purchase. Since the purchase we have invested a substantial amount of money and time for improvements, including a new roof, siding, deck, windows, doors and exterior paint. We have also worked to improve the lot and yard by removing a dilapidated gazebo and privacy fence, numerous bush honeysuckle plants, invasive vines and downed and dead trees and installing new landscaping.

We are requesting a slight dimensional variance along a small portion of the west side property line for the replacement of the existing concrete driveway and walkway. The drive is approximately 50 years old, is in very poor condition with numerous cracks. The drive is bound on both sides by healthy oak trees, whose roots likely caused some of the driveway damage as they grew over the decades. In order to minimize future such damage, we seek to slightly re-route the drive so there is less concrete near the base of the trees. As illustrated on the submitted drawings, this plan would reduce the setback to a minimum of 2 feet, 6 inches at a single point, gradually tapering back to maximum of 5 feet in both directions.

We are also requesting a slight dimensional variance for a very short linear distance (2 feet) along the same property line for a replacement concrete walkway. The requested variance would begin adjacent to front corner of the garage on the western side, and would be 4 feet from the property line at that point. At 2 feet further (southward) the walkway would be 5 feet from the property line and continue to be further from the property line from that point to the end of the walkway where it adjoins the deck stairs.

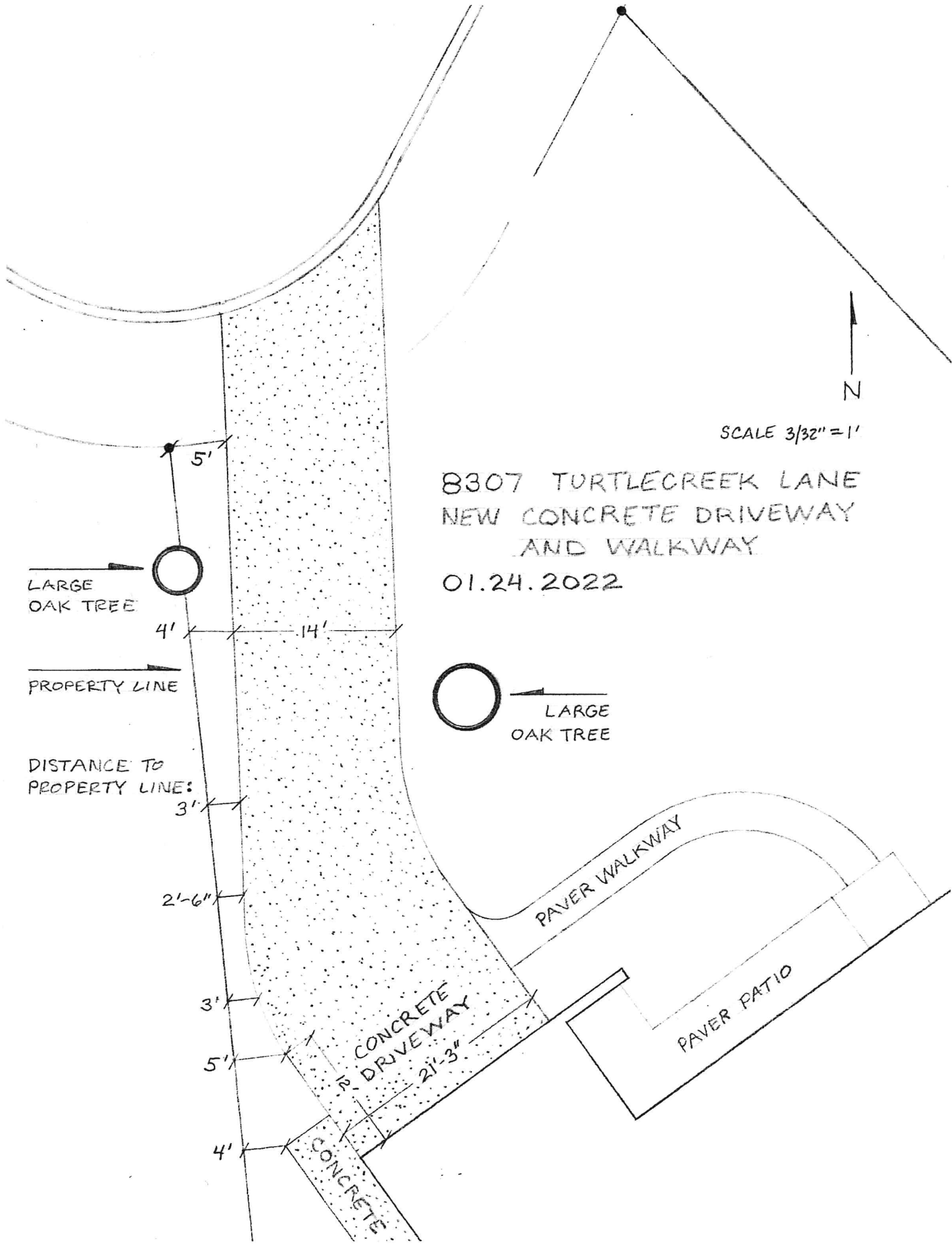
We have reviewed this proposed variance with Don and Jennifer Ernest, owners of the adjoining property, and they have stated they have no objection to the variance. The terrain on both sides of our adjoining property line is a steep, heavily wooded ravine, and the Ernest's house is nearly 100 feet, at the closest point, to the shared property line. The oak tree on the west side of the drive actually straddles the property line, and thus it is in the best interests of both homeowners that the tree is protected as much as possible.

As seen in the submitted photographs, there is no natural or man-made indication of the shared property line, and thus the variance will be completely unnoticed, preserving the intent and integrity of the zoning laws.

We appreciate your consideration of these modest proposed dimensional setback variances.

Sincerely,


Alan McCoy and Michelle McGee



SCALE 3/32" = 1'

8307 TURTLECREEK LANE
 NEW CONCRETE DRIVEWAY
 AND WALKWAY

01.24.2022

LARGE
 OAK TREE



PROPERTY LINE

DISTANCE TO
 PROPERTY LINE:

5'
 4' x 14'
 3'
 2'-6"
 3'
 5'
 4'



LARGE
 OAK TREE

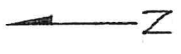
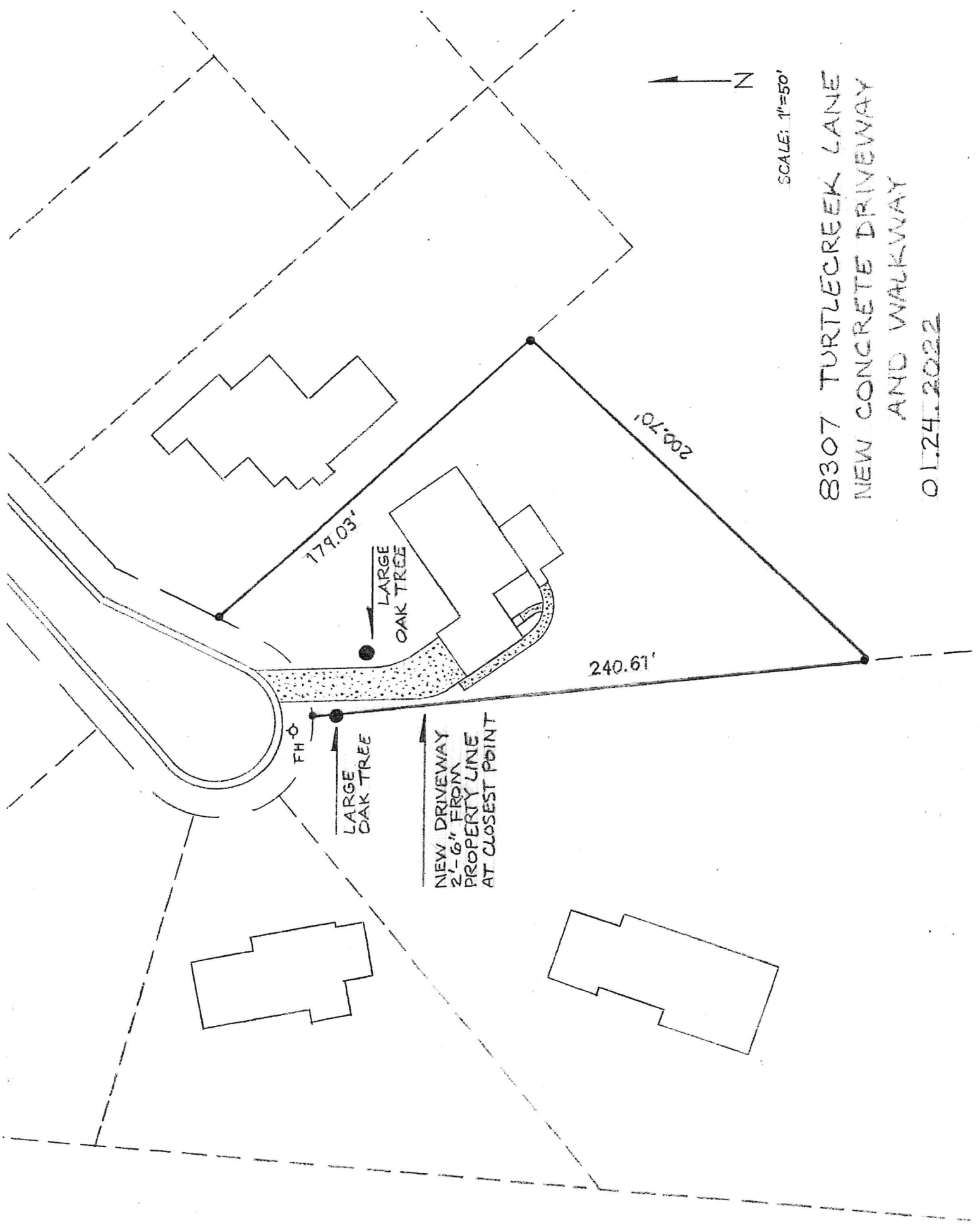
CONCRETE
 DRIVEWAY

PAVER WALKWAY

PAVER PATIO

CONCRETE

21'-3"



SCALE: 1"=50'

8307 TURTLECREEK LANE
NEW CONCRETE DRIVEWAY
AND WALKWAY

0124.2022

179.03'

LARGE
OAK TREE

240.61'

200.70'

FH-O

LARGE
OAK TREE

NEW DRIVEWAY
2'-6" FROM
PROPERTY LINE
AT CLOSEST POINT

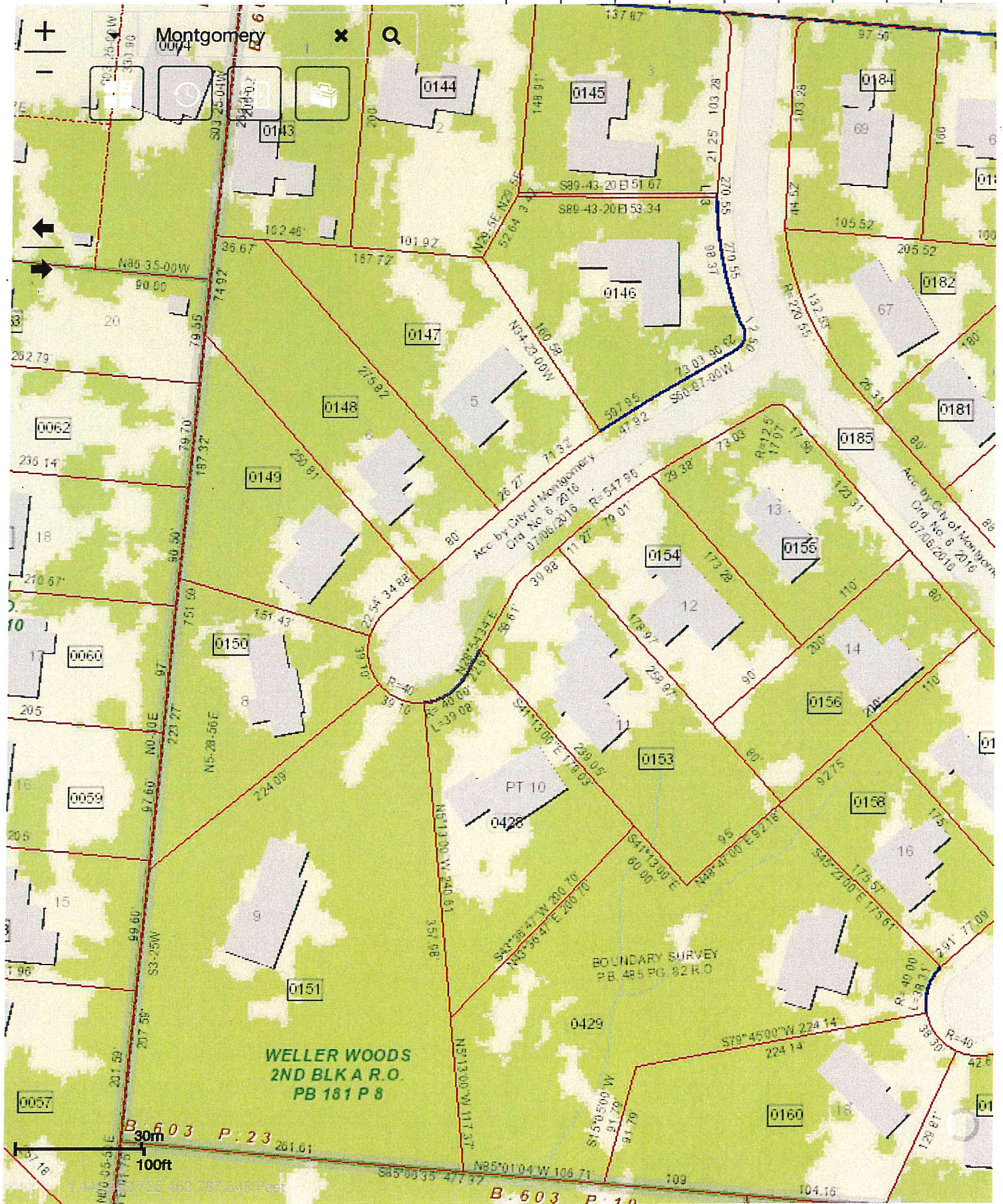


PROPERTY LINE

DRIVEWAY EDGE

WALKWAY CORNER





Melissa Hays

From: William Eulberg <weulberg@fuse.net>
Sent: Friday, February 11, 2022 1:44 PM
To: Melissa Hays
Subject: McCoy Variance

Melissa Hays,

Janet and I have no issue with Alan McCoy and Michelle McGee request for the property variance at 8307 Turtlecreek Lane per the letter we received on subject.

We do not plan on being at the February 22, 2022 meeting.

William S. and Janet L. Eulberg

Melissa Hays

From: dernestcpa@gmail.com
Sent: Thursday, January 20, 2022 3:12 PM
To: Melissa Hays
Subject: Board of Zoning Appeals for 8307 Turtlecreek Lane

Ms. Hays:

We own and reside at 8301 Turtlecreek Lane in the Indian Woods subdivision, which adjoins Alan & Michelle McCoy's property at 8307 Turtlecreek Lane. We have spoken to Alan and Michelle and have thoroughly reviewed their request for a dimensional variance regarding a proposed new concrete driveway along the property line we share. As we are unable to attend the February 22, 2022, Board of Zoning Appeals in person, we are offering this statement of support for the proposed variance.

We have absolutely no objection to this requested variance. The geography of our lot along this property line is an undisturbed natural ravine and our home is approximately 100 feet, at the closest, to the line. We do not believe the proposed variance would have any negative effects on our property or the Indian Woods community. In fact, one benefit of the proposed driveway would be to promote the survival of a large oak. We support these efforts to continue making Indian Woods and the City of Montgomery a sought-after neighborhood.

If you have any questions for us, please don't hesitate to call me or Jennifer at 513-546-9386. If you'd like us to attend the February 22 meeting via Zoom, just let us know.

Sincerely,
Don & Jennifer Ernest

8301 Turtlecreek Lane
Montgomery, OH 45242
Phone: 513-546-9386
Fax: 1-877-997-5678
dernestcpa@gmail.com

CITY OF MONTGOMERY
BOARD OF ZONING APPEALS

Application for Variance(s): *Jim Sykes and Ann Henry*
Parcel ID's 060300020016 & 060300020040
7960 Remington Road

February 22, 2022
Staff Report

Applicant: Jim Sykes and Ann Henry
7960 Remington Road
Montgomery, Ohio 45242

Property Owner: Same as above

Vicinity Map:



Nature of Request:

The applicant is requesting a variance to allow 80 square feet of a proposed attached single-family dwelling (landominium) to have a setback of 25' from the western side property line when 30' is required per Schedule 151.1009(3)(a) of the Montgomery Zoning Code.

The applicant is also requesting variances to allow a side yard of 0' regarding the internal lot line for two new proposed lot(s) when 30' is required per Schedule 151.1009(3)(a) of the Montgomery Zoning Code as it pertains to the shared common wall.

Zoning:

The property is zoned 'D-3' Multi-Family Residential and is located in the Heritage District. The properties to the north and east are zoned 'A' - Single Family Residential and used for single-family residences. The properties to the south are zoned 'C' - Single & Two-Family and 'A'-Single Family Residential. These properties are also located in the Heritage District. The properties at 7949 and 7945 Remington Road are used for two-family residences. The property directly to the west of 7949 Remington Road is a vacant residential lot. The property to the west is zoned 'D-3' Multi-Family Residential and used for a 6-unit apartment building. This building is also located in the Heritage District.

Findings:

1. The owners of the lots/home intend to demolish the current structure to build a two-story attached single-family structure.
2. The Zoning Code conflicts regarding the setbacks requirements for a two-family and attached single family structure. At their December meeting, the Planning Commission determined the proposed home should be considered attached single-family. This decision was based largely on the fact that interpreting the structure as attached single-family would require larger side-yard setbacks (10' vs. 30'), which would provide more protection for adjacent properties. Having a larger side-yard setback was important to the Commission especially in regards to the home to the east, which has legal non-conforming setback and sits on the shared property line.
3. The Planning Commission subsequently approved the General Development Plan at their January 22nd, 2022, meeting with the

condition that the side yard setback reduction be approved by the Board of Zoning Appeals or be brought into compliance with the Code.

4. Overall, the existing two properties will be replatted into a landownership concept with a shared common wall. The overall property boundaries combined have an irregular shape. The western side property line is 214.89' in length (lot depth) and the eastern side property line is 234.01' with a slight angle inward. The southern lot line (front yard) is 125.3' in width with the northern lot line (rear yard) is 89.94'. The rear of the lot also has a steep topography with a significant drop off. When accounting for the proposed new two landownership lots, the irregular shape and topography challenges will still exist.
5. The new landownership lots meet the density requirements for the development area as well as maximum impervious surface as listed in Schedule 151.1006.

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?*

Regarding the western side yard setback, the layout of the lot is not a typical rectangular shape with parallel side lot lines which can cause issue when a typical parallelogram type structure is proposed.

Pertaining to the interior lot side yard setback reduction to 0' for a landownership, the request is standard for land ownership to run along the common demising wall of the overall structure and is peculiar to this type of use.

The property is also unique as it is located in the Heritage District, which has specific regulations in regards to massing and scale that require a vertically oriented two-story structure.

- 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.

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

Regarding the western side setback request, the applicant is requesting to encroach 5' or 16.7% into the required 30'. The request could be considered substantial but considering the overall area encroaching is approximately 80 sq. ft. of the structure, the impact would appear minimal. Staff is of the opinion that this may be the minimum necessary to place a two-story structure on the lot while allowing the units to be sufficiently sized and vertically oriented as required in the Heritage District.

Pertaining to the interior lot side yard setback reduction to 0' for a condominium, the request is substantial as it would allow for a 100% setback variance but, this variance is typical with a condominium building.

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

Staff does not believe the character of the neighborhood would be substantially altered by granting the variance requests. When considering that options exist that would allow for a single-family residence which could be much larger in scale with lesser side yard setbacks, Staff believes that the proposed development is the best option to protect the surrounding properties and meets the regulations of the Heritage District for a two-story, vertically oriented structure. Additionally, it should be emphasized that other condominium type structures in the vicinity have also received 0' setback approval.

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

Delivery of governmental services would not be impacted by granting the variance.

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

The property owner has stated that they were not aware of the zoning restraint at the time of purchase.

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

No special conditions exist as a result of actions of the owner.

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

The applicant could build a single-family home that would only require an 8-foot side yard setback, thus creating a larger impact on adjacent neighbors. This option would not not require a 0' internal side yard setback for a landominium. However, as designed, the proposal is adhering to the 30' side yard setback requirement for most of the structure with only a small portion of the building encroaching into the side yard setback. Considering the proposed structure is only 49 feet wide, the applicant has stated the building is as narrow as can be reasonably designed to be occupied.

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

Staff believes that the spirt and intent of the Zoning Code would be preserved by granting the variances as it is the intent of the Code to protect property owners from more intense uses and to require vertically oriented, two-story structures in the Heritage District. As stated above, the zoning requirements are conflicting as the development could be considered both a Two-Family Dwelling, only requiring a 10' side yard or a Single-family Attached Dwelling that requires a more restrictive 30' side yard. The Planning Commission has interpreted the project as a Single-Family Attached structure to protect the existing single-family property to the east. While Staff supports this interpretation, it does require a much larger side-yard setback that would be required for a two-family dwelling, thus creating a hardship for redevelopment of the site.

Furthermore, this parcel is unusual in its dimensions and substantial topography challenges in the rear which creates a

practical difficulty in redeveloping the site. The amount of variance being requested is small when considering it is only 80 square feet of an encroachment.

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

Regarding the western 5' variance request, the adjacent property, located at 7972 Remington appears to have a near 0' foot legal non-conforming setback (year built 1941). The two-family structure to the south at 7949 Remington (year built 1958) also appears to have near a 0' foot legal non-conforming side yard setback. It should also be noted that it does not appear that any surrounding multi-family properties have been required a 30' side yard setback.

Regarding the internal side yard variances, the Board of Zoning Appeals approved a 0' side yard setback for 7900 Remington Road for multiple landminium units in 2009.

In 2013 various 0' side yard setbacks for multiple landminiums located at 7925 Remington Road with no additional conditions were also approved by the Board of Zoning Appeals.

Staff Comments and Recommendations

The subject property was previously discussed with Planning Commission concerning the proper classification as the Zoning Code designates both single-family attached and two-family residential with similar definitions, but substantially different setback requirements. The Planning Commission determined that the appropriate classification should be Single-Family Attached. This classification requires larger side yard setbacks of 30 feet versus 10 feet, if considered a two-family structure. While a minimal side yard variance will be required to allow the structure, Staff believes the overall proposed western setback of 25' (vs. 10' if considered a two-family) is beneficial to the adjacent neighboring structure which appears to have been constructed on/near the adjacent property line.

The lot has non-typical dimensions which create a practical difficulty with a substantial drop off at the rear of the lot. Staff is of the opinion that the applicant has proposed a best-case scenario for redevelopment as the size and scale of the structure and associated architecture

appears sensitive to the historic vision entering the Heritage District and meets the minimum/maximum 2-story requirement of the Heritage District.

Staff does not believe granting these variances would negatively impact the neighborhood, as many the lots within the area differ in size, dimensions, and layout and previously received similar interior setback variances for a condominium project.

Planning Commission has approved the General Development Plan and the proposal will also require Landmarks Commission and well as Planning Commission Final Development Plan approval.

Staff believes that the variances to allow the proposed new two story attached single-family residence to have a western side yard setback of 25' where 30' is the minimum required as well as two interior side yard setbacks of 0' in accordance with the site plan dated 2/09/2022 would be justified by criteria numbers 1,3,4,5,6,7,8,9, & 10.

Ann Henry and Jim Sykes
7960 Remington Rd.
Montgomery, Ohio 45242

Re: Planning Commission Pre Planning meeting, City of Montgomery, Ohio

Date: Feb. 22,2022

To: Board of Zoning Members

We are the current property owners of 7960 Remington Rd. We have lived there since April 2001. We have watched the transformation of Remington Rd. over the past 15 years with the many tear downs and new construction. The new single family homes and townhomes both contribute positively to our community.

Given this current state of development, we believe that our home would be considered a tear down by whomever purchased the property should we decide to sell. We have decided to develop the property ourselves. We have been working with Tracy Henao and Kevin Chesar on details and requirements to convert our existing single family home lot, zoned D-3;multi family, to become a Single Family attached 2 townhome building. In addition, our property is in the Heritage Overlay District.

We have been given conditional approval by the Planning Commission contingent upon approvals from BZA and Landmarks.

We both have experience in the design and construction industry: Jim is a retired footing contractor who owned his own contracting business for 25 years. Ann is the current owner, along with her 2 partners, of W⁵ Design+Architecture, a woman owned design and architecture firm formed in 2013. She has 30+ years in the commercial design industry.

Ann has developed plans and drawings for the construction of 1 building with 2 dwellings, on the site, with a similar aesthetic and size to the current townhomes to the west of 7960 Remington along Remington and Main streets. There would be 1 townhome in the building at the west side of the property and 1 townhome in the building at the east side of the property.

We believe this development, would be an enhancement to the community by creating additional residences in the pedestrian urban zone of downtown Montgomery and generate more property tax for the city.

Thank for your consideration and we look forward to discussing all your issues and concerns at the upcoming BZA meeting.

Sincerely,

The image shows two handwritten signatures in black ink. The signature on the left is for Jim Sykes, written in a cursive style. The signature on the right is for Ann Henry, also in a cursive style.

Jim Sykes and Ann Henry


Dusty Rhodes, Hamilton County Auditor

generated on 1/29/2022 11:37:07 AM EST

Property Report

Parcel ID 603-0002-0016-00	Address 7960 REMINGTON RD	Index Order Parcel Number	Tax Year 2021 Payable 2022
--------------------------------------	-------------------------------------	-------------------------------------	--------------------------------------

Property Information

Tax District 211 - MONTGOMERY-SYCAMORE CSD	School District SYCAMORE CSD	Land Use 510 - SINGLE FAMILY DWLG	Images/Sketches 
Appraisal Area 60301 - MONTGOMERY 01	Owner Name and Address HENRY ANN & JAMES SYKES 7960 REMINGTON RD CINCINNATI OH 45242 <i>(call 946-4015 if incorrect)</i>	Tax Bill Mail Address WELLS FARGO REAL ESTATE-ATT TAX DEPT-MAC X2302-04D 1 HOME CAMPUS DES MOINES IA 503280001 <i>(Questions? 946-4800 or treasurer.taxbills@hamilton-co.org)</i>	
Assessed Value 96,090	Effective Tax Rate 66.752311	Total Tax \$5,678.60	
Property Description WELLER RD 125.30 X 183.60 IRR R1-T4-S3 NW			

Appraisal/Sales Summary	
Year Built	1927
Total Rooms	5
# Bedrooms	2
# Full Bathrooms	2
# Half Bathrooms	0
Last Transfer Date	4/4/2001
Last Sale Amount	\$170,000
Conveyance Number	4035
Deed Type	SV - Survivorship Deed (Conv)
Deed Number	933115
# of Parcels Sold	2
Acreage	0.460

Tax/Credit/Value Summary	
Board of Revision	No
Rental Registration	No
Homestead	No
Owner Occupancy Credit	Yes
Foreclosure	No
Special Assessments	Yes
Market Land Value	136,620
CAUV Value	0
Market Improvement Value	137,920
Market Total Value	274,540
TIF Value	0
Abated Value	0
Exempt Value	0
Taxes Paid	\$2,841.14
Tax as % of Total Value	2.067%

Notes

Dusty Rhodes, Hamilton County Auditor

generated on 1/29/2022 11:38:33 AM EST

Property Report

Parcel ID 603-0002-0040-00	Address 7960 REMINGTON RD	Index Order Parcel Number	Tax Year 2021 Payable 2022
--------------------------------------	-------------------------------------	-------------------------------------	--------------------------------------

Property Information

Tax District 211 - MONTGOMERY-SYCAMORE CSD	School District SYCAMORE CSD	Land Use 500 - RESIDENTIAL VACANT LAND	Images/Sketches 
Appraisal Area 60301 - MONTGOMERY 01	Owner Name and Address HENRY ANN & JAMES SYKES 7960 REMINGTON RD CINCINNATI OH 45242 <i>(call 946-4015 if incorrect)</i>	Tax Bill Mail Address WELLS FARGO REAL ESTATE-ATT TAX DEPT-MAC X2302-04D 1 HOME CAMPUS DES MOINES IA 503280001 <i>(Questions? 946-4800 or treasurer.taxbills@hamilton-co.org)</i>	
Assessed Value 630	Effective Tax Rate 66.752311	Total Tax \$39.00	
Property Description REAR REMINGTON RD 46.98 X 101.31 IRR R1-T4-S3 NW			

Appraisal/Sales Summary	
Year Built	
Total Rooms	
# Bedrooms	
# Full Bathrooms	
# Half Bathrooms	
Last Transfer Date	4/4/2001
Last Sale Amount	\$170,000
Conveyance Number	4035
Deed Type	SV - Survivorship Deed (Conv)
Deed Number	933115
# of Parcels Sold	2
Acreage	0.083

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	1,790
CAUV Value	0
Market Improvement Value	0
Market Total Value	1,790
TIF Value	0
Abated Value	0
Exempt Value	0
Taxes Paid	\$19.50
Tax as % of Total Value	2.067%

Notes



APPLICATION FORM

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

Project Address (Location): 7960 Remington Rd.

Project Name (if applicable): n/a

Auditors Parcel Number: 603-0002-0040-00 & 603-0002-0016-00

Gross Acres: .083+ .460 = .543 Lots/Units 2 Commercial Square Footage 1,864 existing house

Additional Information: Construct 2 Townhomes-attached on the lot currently zoned D-3 multi-family (currently there is a single family home)

PROPERTY OWNER(S) Jim Sykes and Ann Henry Contact Ann Henry

Address 7960 Remington Rd. Phone: 513.706.6268 cell Ann

City Montgomery State Oh Zip 45242

E-mail address annhenryyy@gmail.com

APPLICANT Jim Sykes and Ann Henry Contact Ann Henry

Address 7960 Remington Rd Phone: 513.706.6268

City Montgomery State Oh Zip 45242

E-mail address annhenryyy@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

ONLY   FOR DEPARTMENT USE

Print Name

Jim Sykes and Ann Henry

Date 02.22.2022

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.

VARIANCE 1 - SETBACK ENCROACHMENT

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.

Lot is narrow and slopes steeply on the west side making locating the building closer to east side of property ideal. Property lines are not parallel and therefore result in a small wedge on east side encroaching approx. 5 on side setback. Building cannot be made narrower as functionality and aesthetically it would be greatly comprised, rendering the project of no value.

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

It would yield the allowance of only a single family home to be constructed. Or a 2 family zoned building, single story, which would have smaller side setbacks and large front setback pushing the building into non usable land at rear of property.

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

There variance is minimal, 5'-0" It is the minimum required due to size and shape of building.

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

No, the character will be a continuation of the character already established to the west on Remigton Rd.

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

No-unknown as to what zoning guidelines existing in 2001.



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

No

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

No special conditions exist.

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

No

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

The spirit and intent is being adhered to, given the restraints of the non parallel property lines. The building is as narrow as can be reasonably designed and occupied.

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

Not to our knowledge. Have no knowledge of history of variances granted in district.



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.

VARIANCE 2 - ZERO LOT LINE

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.

Current zoning allows for Single family attached dwellings. With only 2 dwellings proposed, it is unnecessary and burdensome to maintain common property areas and have an HOA.

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

Yes, but HOA is unnecessary and burdensome.

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

The variance would be reduced from 30' to 0'. But the building is single family attached which is defined as 2 dwellings sharing a common wall.

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

No, the character will be a continuation of the character already established to the west on Remigton Rd.

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?

No-unknown as to what zoning guidelines existing in 2001.

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

No special conditions exist.

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

No

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

The end result from a visual perspective is the same whether the property is 2 parcels, with separate owners, or 2 parcels, common space and an unnecessary, burdensome HOA.

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

No. The 3 unit townhome development at 7925, 7929, and 7933 Remington Road

has similar zero lot lines and no common area. Each unit has zero lot line with its adjacent neighbor with common areas (driveways, parking, yard etc.) dispersed among all 3 properties with all being shared amongst the 3 properties.

We have had conversations with the owners of 7933 Remington regarding this condition.




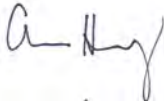
CONSENT OF OWNER(S) TO INSPECT PREMISES

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 7960 Remington Rd., 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 Jim sykes and Ann Henry

Date 02.22.22

Board of Zoning Appeals Members:

Mary Jo Byrnes

Tom Molloy

Bob Saul

Steve Uckotter

Richard White

Peter Fossett

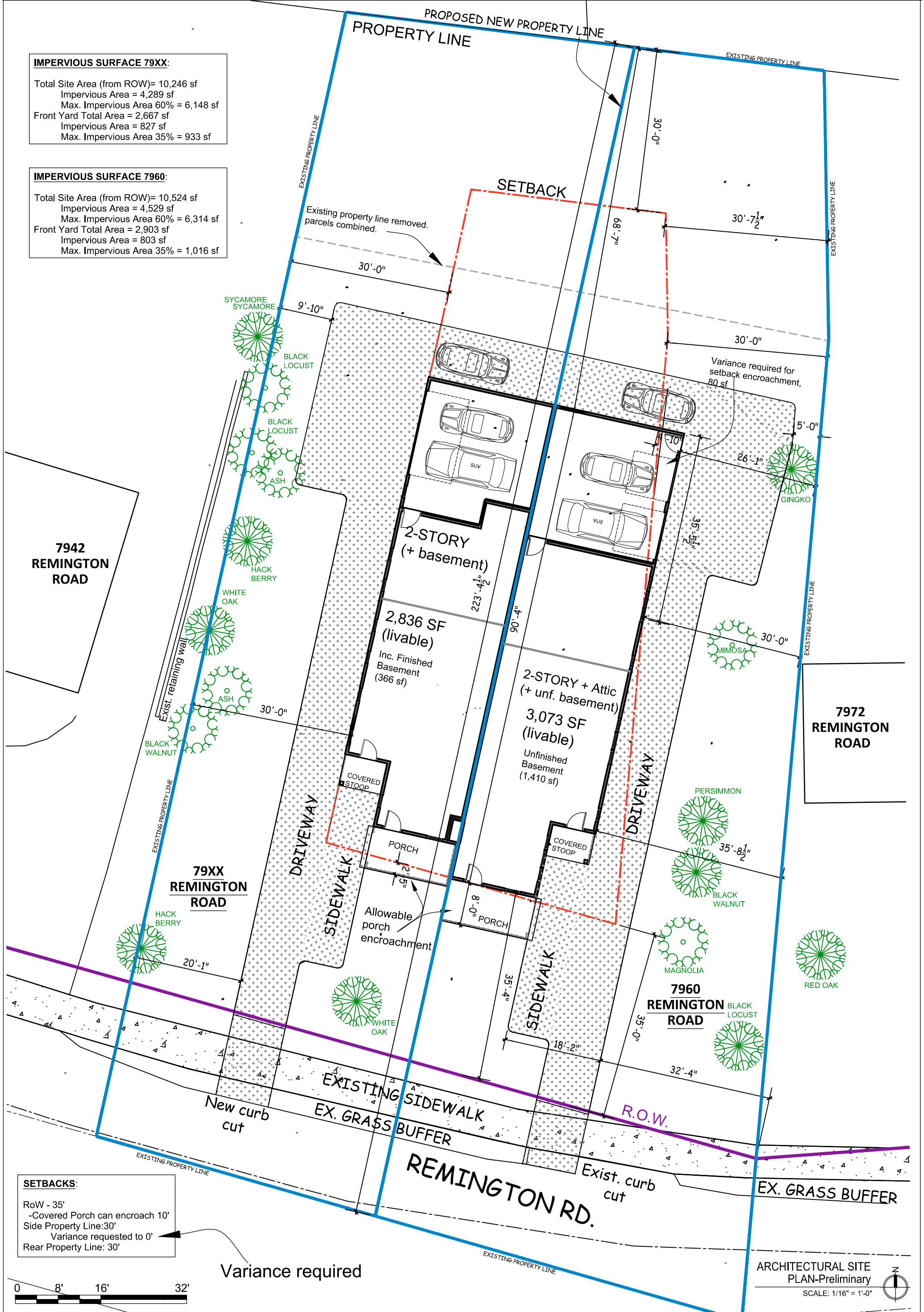
Jade Stewart

IMPERVIOUS SURFACE 79XX:

Total Site Area (from ROW)= 10,246 sf
 Impervious Area = 4,289 sf
 Max. Impervious Area 60% = 6,148 sf
 Front Yard Total Area = 2,667 sf
 Impervious Area = 827 sf
 Max. Impervious Area 35% = 933 sf

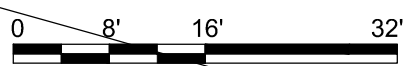
IMPERVIOUS SURFACE 7960:

Total Site Area (from ROW)= 10,524 sf
 Impervious Area = 4,529 sf
 Max. Impervious Area 60% = 6,314 sf
 Front Yard Total Area = 2,903 sf
 Impervious Area = 803 sf
 Max. Impervious Area 35% = 1,016 sf



SETBACKS:

RoW - 35'
 -Covered Porch can encroach 10'
 Side Property Line: 30'
 Variance requested to 0'
 Rear Property Line: 30'



Variance required

ARCHITECTURAL SITE PLAN-Preliminary
 SCALE: 1/16" = 1'-0"

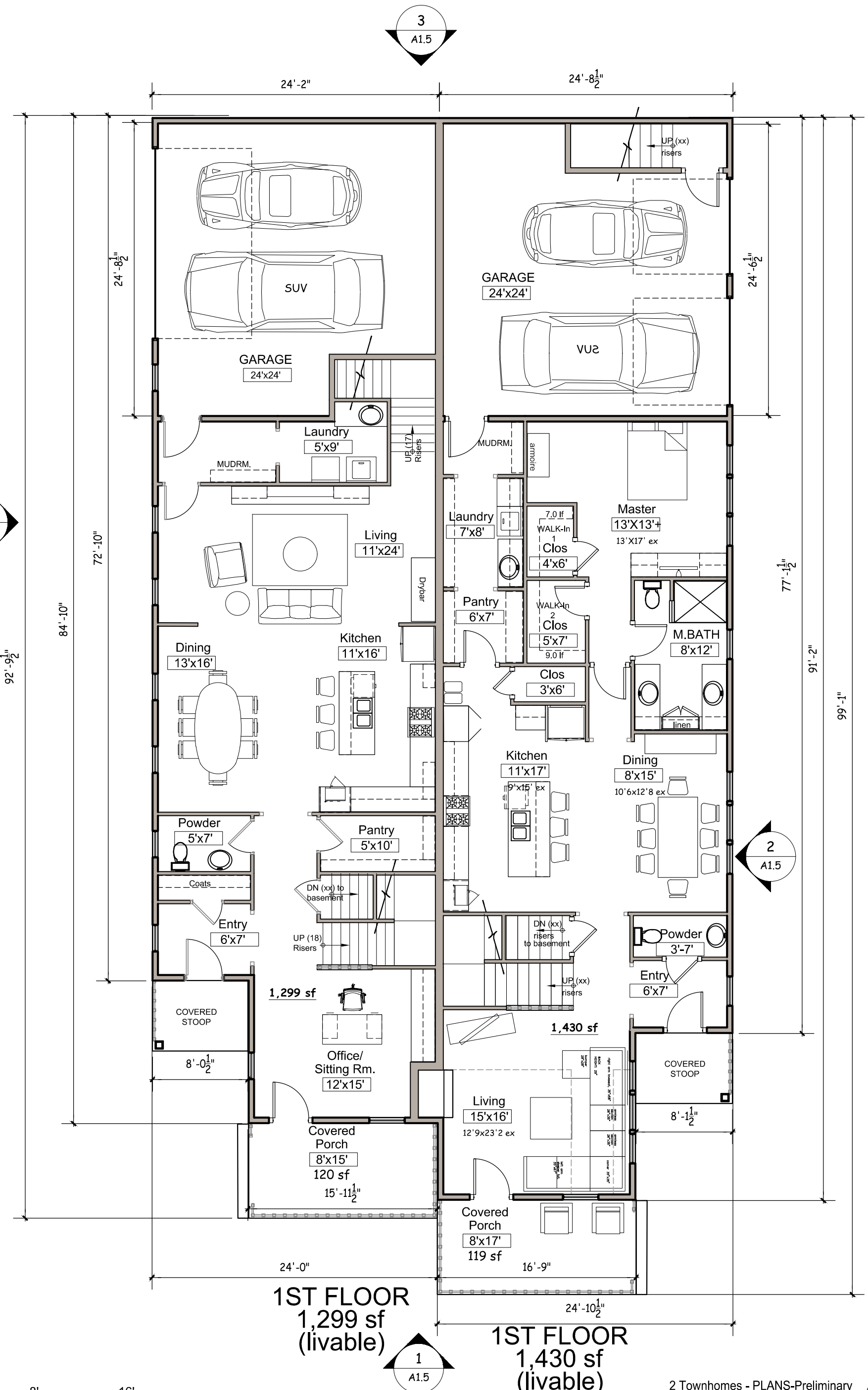
ZONING:

D-3
 Historic District

Job Name:	Remington Row - Double Townhomes	Date:	02.09.22
Location:	7960 Remington Rd, Cinti OH 45242	Rev:	
Job Number:			
		Option No.	

W² DESIGN

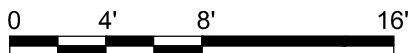
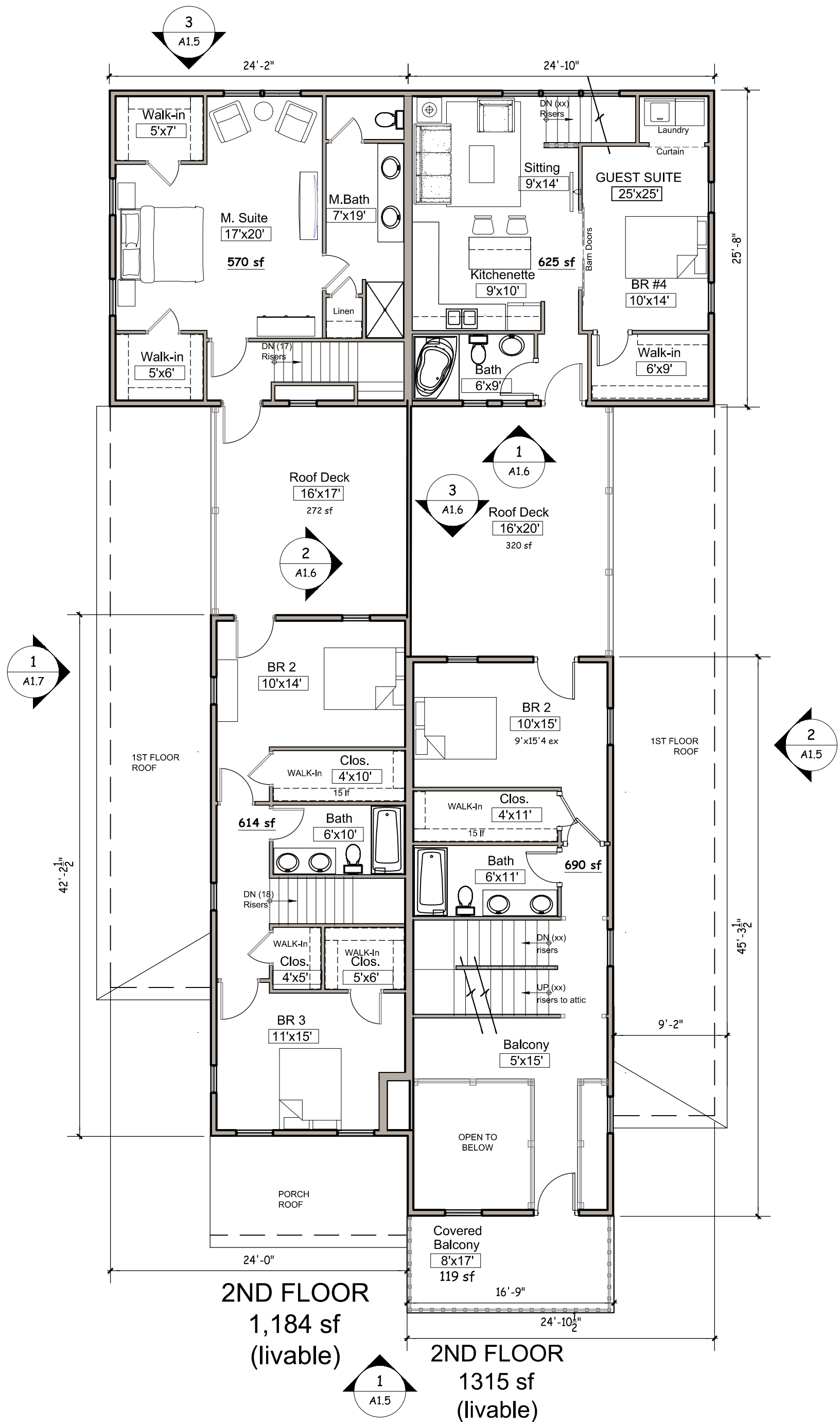
W² DESIGN LLC
 515 Wyoming Ave.
 Cincinnati, Ohio 45215
 513.376.0968



2 Townhomes - PLANS-Preliminary
SCALE: 1/8" = 1'-0"

Job Name: Remington Double Townhomes	Date: 12.20.21
Location: 7960 Remington Rd, Cinti OH 45242	Rev: 12.20.21
Job Number:	
Option No.	

W⁵ DESIGN LLC
515 Wyoming Ave.
Cincinnati, Ohio 45215
513.376.0968



DOUBLE TOWNHOMES - PLANS-Preliminary

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



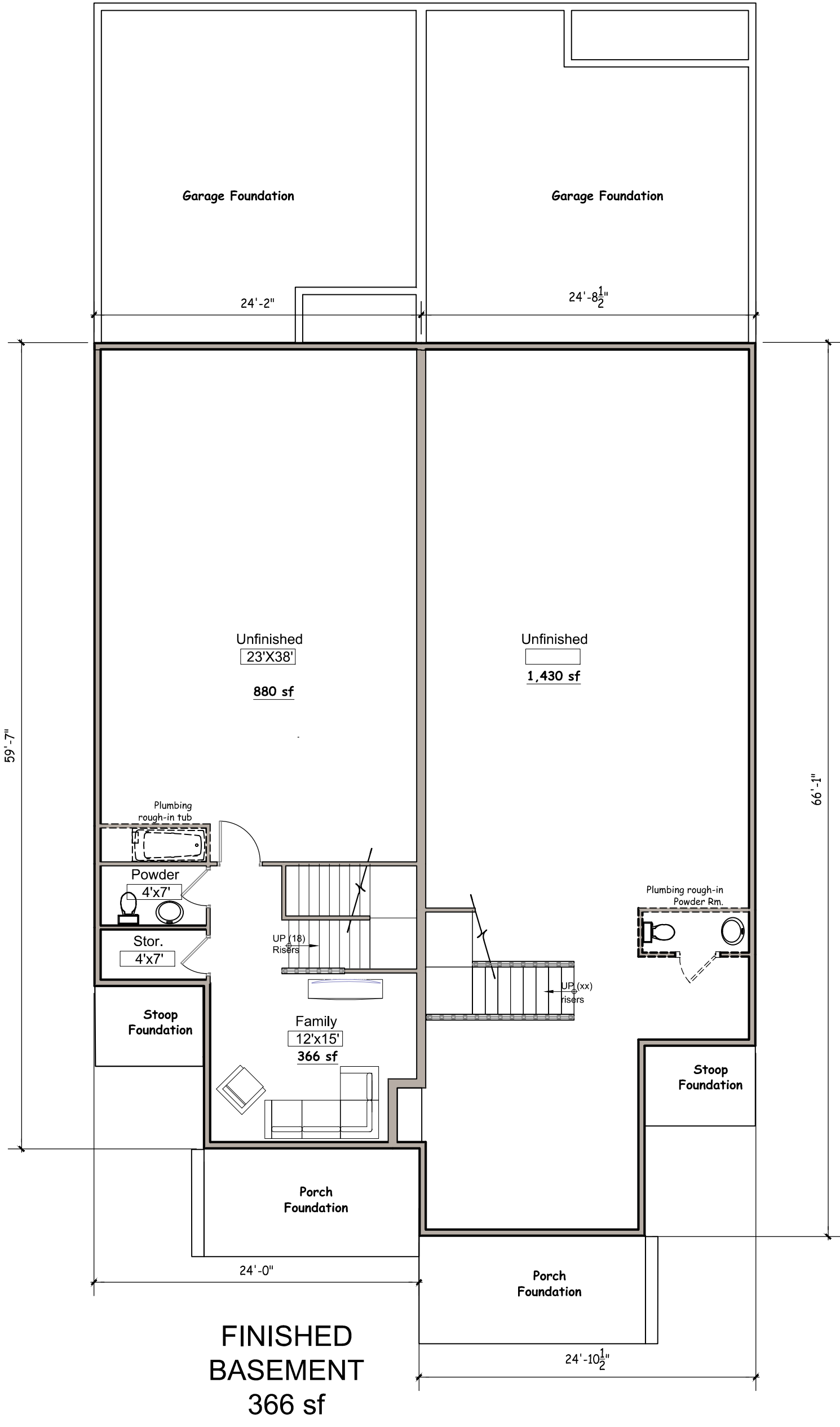
Job Name: Remington 2 Townhomes
 Location: 7960 Remington Rd, Cinti OH 45242
 Job Number:

Date: 12.20.21
 Rev: 12.20.21

Option No.



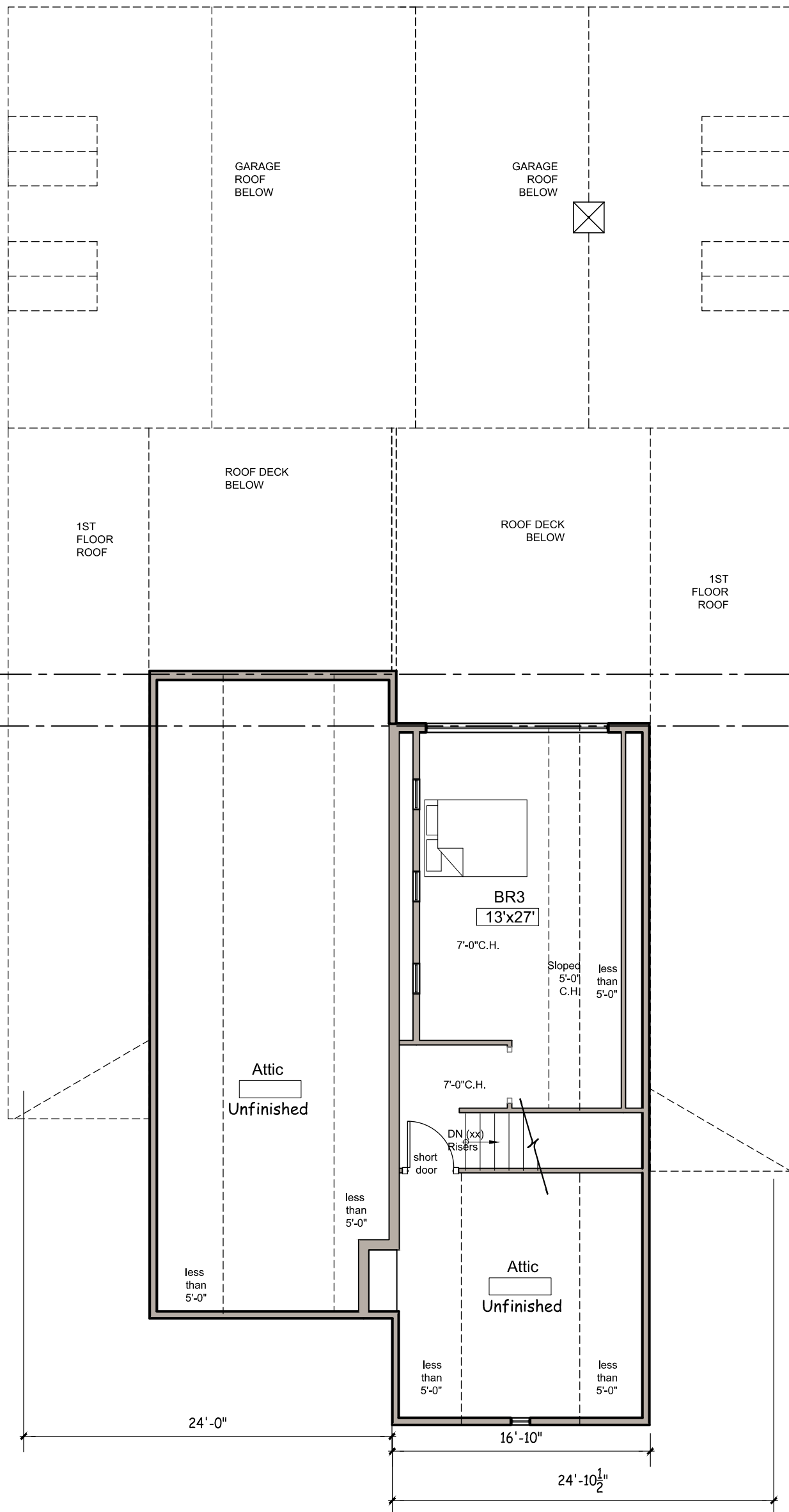
W&P DESIGN LLC
 515 Wyoming Ave.
 Cincinnati, Ohio 45215
 513.376.0968



2 Townhomes - PLANS-Preliminary
 SCALE: 1/8" = 1'-0"

Job Name: Remington Double Townhomes	Date: 12.20.21
Location: 7960 Remington Rd, Cinti OH 45242	Rev: _____
Job Number: _____	Option No. _____

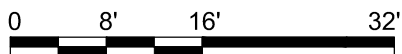
Wp DESIGN LLC
 515 Wyoming Ave.
 Cincinnati, Ohio 45215
 513.376.0968



FINISHED ATTIC
380 sf

ATTIC PLAN-Preliminary

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



Job Name: Remington - Double Townhomes
 Location: 7960 Remington Rd, Cinti OH 45242
 Job Number:

Date: 12.20.21

Rev:

Option No.



W5 DESIGN LLC
 515 Wyoming Ave.
 Cincinnati, Ohio 45215
 513.376.0968



SIDING - Color TBD



SIDING - Pale Yellow



EXTERIOR ELEVATIONS-Preliminary
SCALE: 3/16" = 1'-0"

REMINGTON - Double Townhomes

7960 Remington Rd.
Cincinnati OH 45242

Date: 12.13.21

Rev:

Option No.



W5 DESIGN LLC
515 Wyoming Ave.
Cincinnati, Ohio 45215
513.376.0968



WEST Townhome



EAST Townhome

Job Name: Remington Row - Double Townhomes

Date: 12.13.21

Location: 7960 Remington Rd, Cinti OH 45242

Rev:

Job Number:

Option No.



W⁵ DESIGN LLC
515 Wyoming Ave.
Cincinnati, Ohio 45215
513.376.0968

PRELIMINARY
NOT FOR
CONSTRUCTION

No.	Date	Description
00.00.00	00.00.00	Original Issue date: xxxxxx
00.00.00	00.00.00	xxxxxx

Project Status i.e
**SCHEMATIC
DESIGN**

JOB NUMBER: ###.##

FILE: FILE

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

DATE: DEC. 20, 2021

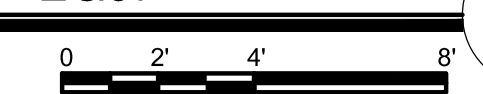
EXTERIOR
ELEVATIONS

A1.5



East Townhome
EXTERIOR ELEVATION - East

SCALE: 1/4" = 1'-0"

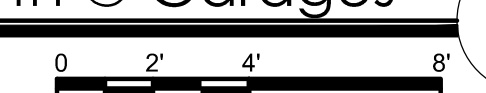


02



East & West Townhomes
EXTERIOR ELEVATION - North @ Garages

SCALE: 1/4" = 1'-0"

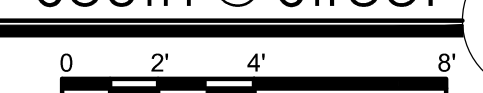


03



East & West Townhomes
EXTERIOR ELEVATION - South @ Street

SCALE: 1/4" = 1'-0"



01

PRELIMINARY
 NOT FOR
 CONSTRUCTION

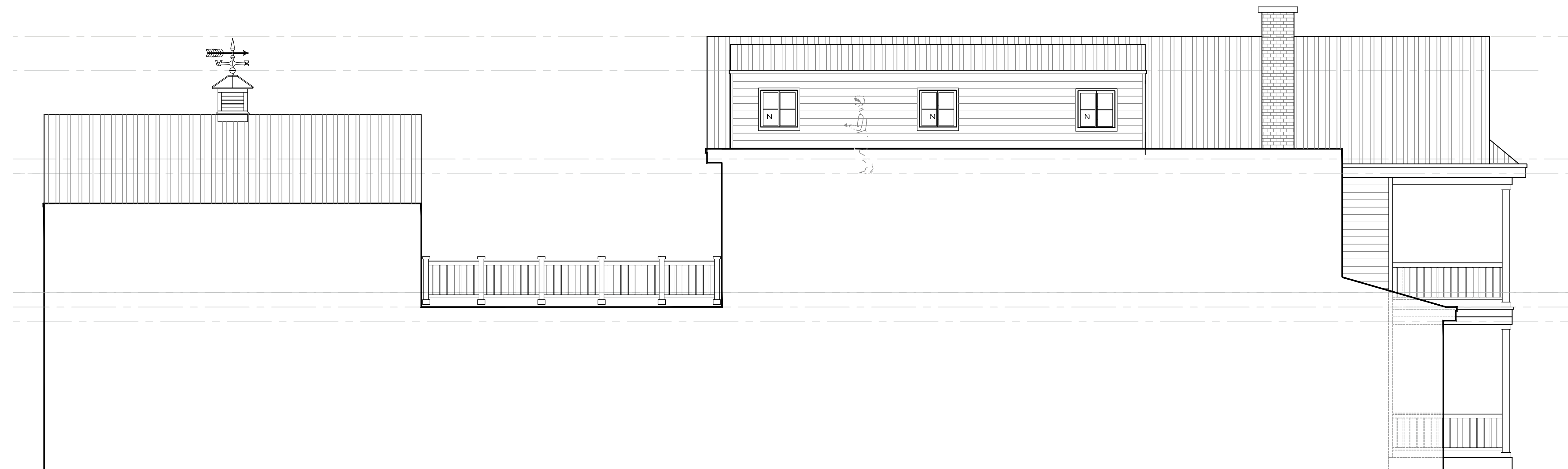
No.	Date	Original Issue	Description
00.00.00			xxxxxx
00.00.00			xxxxxx

Project Status i.e
 SCHEMATIC
 DESIGN

JOB NUMBER: ###.##
 FILE: FILE
 SCALE: 1/8" = 1'-0"
 DATE: NOV. 8, 2021

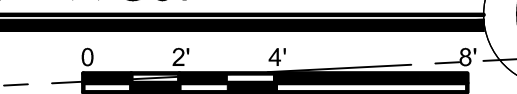
EXTERIOR
 ELEVATIONS

A1.5



East Townhome
 EXTERIOR ELEVATION - West

SCALE: 1/4" = 1'-0"

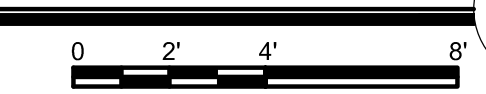


02



East & West Townhomes
 EXTERIOR ELEVATION - South @ Roof Deck

SCALE: 1/4" = 1'-0"

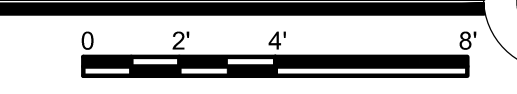


03



East & West Townhomes
 EXTERIOR ELEVATION - North @ Roof Deck

SCALE: 1/4" = 1'-0"



01

PRELIMINARY
NOT FOR
CONSTRUCTION

No.	Date	Description
00.00.00	Original Issue Date	
00.00.00	xxxxxx	

Project Status i.e
**SCHEMATIC
DESIGN**

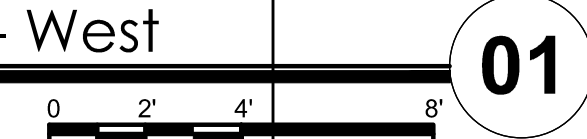
JOB NUMBER: ###.##
FILE: FILE
SCALE: 1/8" = 1'-0"
DATE: 2013 MONTH DAY

EXTERIOR
ELEVATIONS

A1.7



West Townhome
EXTERIOR ELEVATION - West
SCALE: 1/4" = 1'-0"



*These Board of Zoning Minutes are a draft. They do not represent the official record of proceedings until formally adopted by the Board of Zoning Appeals.
Formal adoption is noted by signature of the Clerk within the Minutes.*

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

City Hall, 10101 Montgomery Road, Montgomery, OH 45242

January 25, 2022

<u>PRESENT</u>		
<u>GUESTS & RESIDENTS</u>		<u>STAFF</u>
Lee Ann Bismeyer Vice Mayor City Council	Erin Seger Wentz Design 7813 Ted Gregory Lane Suite C Montgomery, OH 45242	Melissa Hays, Zoning and Code Compliance Officer Karen Bouldin, Secretary
David Robertshaw 10722 Adventure Lane 45242	Floyd Spaulding 9835 Zig Zag Road, 45242	<u>ALL BOARD MEMBERS PRESENT</u> Mary Jo Byrnes, Chairman Peter Fossett Tom Molloy Bob Saul Jade Stewart Steve Uckotter
	Jeff & Kate Stechschulte 7455 Stonemeadow Lane 45242	<u>MEMBERS NOT PRESENT</u> Richard White, Vice-Chairman

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

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

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

Pledge of Allegiance

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

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Board of Zoning Appeals Meeting

January 25, 2022

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

30

Roll Call

31

32

33 *The roll was called and showed the following responses:*

34

35 ***PRESENT: Mr. Fossett, Mr. Uckotter, Mr. Molloy, Mr. Saul, Ms. Stewart,***
36 ***Chairman Byrnes***

(6)

37 ***ABSENT: Mr. White***

(1)

38

Guests and Residents

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

42

43 Ms. Hays stated that she had received an email requesting that Item 4 of the agenda
44 (Jim E. Sluka) be tabled.

45

46 ***Mr. Uckotter made a motion to table the request from property owner, Jim E. Sluka***
47 ***for a variance to allow a new single-family dwelling to have a rear-yard setback of 23 feet,***
48 ***where 30 feet is the minimum required, per Schedule 151.1005 of the Montgomery Zoning***
49 ***Code.***

50

51 ***Ms. Stewart seconded the motion.***

52

53 ***The Board unanimously approved.***

54

55

56 ***Mr. Molloy made a motion to re-open the December 28, 2021 request for a variance from***
57 ***Patricia Spaulding, 9835 Zig Zag Road, Montgomery, OH 45242 to allow an HVAC unit to be***
58 ***located in the front yard, where HVAC units are permitted only in the side and rear yards, per***
59 ***Schedule 151.1009(C) of the Montgomery Zoning Code.***

60

61 ***Ms. Stewart seconded the motion.***

62

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

64

65 ***AYE: Mr. Fossett, Mr. Uckotter, Mr. Molloy, Mr. Saul, Ms. Stewart,***
66 ***Chairman Byrnes***

(6)

67 ***NAY:***

(0)

68 ***ABSENT: Mr. White***

(1)

69 ***ABSTAINED:***

(0)

70

71 ***This motion is approved.***

72

73

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Board of Zoning Appeals Meeting

January 25, 2022

74 **New Business (1)**

75 *A request for reconsideration of a variance from Patricia Spaulding, property owner of 9835*
76 *Zig Zag Road, Montgomery, OH 45242 to allow for an HVAC unit to be located in the front*
77 *yard where HVAC units are permitted only in the side and rear yards, per Schedule*
78 *151.1009(C) of the Montgomery Zoning Code.*

79

80 **Staff Report**

81 Ms. Hays reviewed the Staff Report dated January 21, 2022, “Request for Reconsideration at
82 9835 Zig Zag Road.” She asked if there were any questions or comments.

83

84 Mr. Saul cited an example of a person (not a resident of Montgomery) who planned to build a
85 sunroof off the back of their home. They built the sunroof, and put in a new duct, so it was an
86 extension of their central air conditioning, which kept the room cool and warm. He asked the
87 applicant if the home had central air conditioning.

88

89 **Floyd Spaulding, 9835 Zig Zag Road, Montgomery, OH 45242**, was present, on behalf of
90 Patricia Spaulding. He stated that his family has lived there for over 40 years, and the home was
91 75 years old; the room addition was about 50 years old. He stated that he was a general
92 contractor, and owner of Spaulding Properties and Spaulding Restoration Renovation. He put a
93 new HVAC system on the main part of the home about 8 years ago. The home has been rewired,
94 all new, from the street, in. The back room has always had an issue, and it is unusable when it is
95 cold out – that is 800 feet of dead space. They have a heat-pump window unit. There is no way
96 he can put any unit around the back.

97

98 He stated that there was no ductwork or returns. You would have to go through the foundation
99 to be able to run anything to that. The only viable option was the unit proposed. It is mounted 7
100 feet above the floor. He showed several pictures, noting that there was no way to put the unit in
101 the back because there was a family room with 15 feet of glass across the back. He explained
102 that a home down the street has the same set-up that he is proposing. Mr. Spaulding stated that
103 there was no easy way to install this. He noted that he would put shrubs around it, to make it
104 look aesthetically appealing. He noted that the tree will need to be taken out where the window
105 unit is currently.

106

107 Mr. Molloy referred to one of the photos that showed 2 air conditioning units. Mr. Spaulding
108 stated that is what it would look like – it is a mini-split – a split system with the house.
109 The photo was of the home on the corner of Zig Zag and Cooper. He explained that his lines
110 would only be 7 feet, whereas those in the photo were about 15 feet. He stated that his line
111 would be not much higher than the shutters on his home. He stated that it would all be covered
112 up. Mr. Spaulding stated that the work he does is historical and high-end. He had rental
113 properties that were historical.

114

115 Mr. Fossett was confused, as the photo showed the unit down on the ground, whereas
116 Mr. Spaulding described it as being up on the wall. Mr. Spaulding stated that the outside unit is
117 on the ground, but inside the home, it would be about 7 feet from the floor, towards the ceiling.

118

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Board of Zoning Appeals Meeting

January 25, 2022

119 Mr. Saul stated that it is a non-conductor unit, and had no vents in it. Mr. Spaulding confirmed.

120

121 Mr. Fossett asked if there was enough space on the southeast corner of the house, between the
122 end of the sliding deck door and the end of the house, to put the unit. Mr. Spaulding stated that it
123 has to be centered in the room, and there is no way to put it above the glass. Short of putting in
124 another window unit, he had no other options.

125

126 Mr. Uckotter asked if the outside units came in a color other than white. Mr. Spaulding stated
127 they did not; he hasn't seen it. He noted that the brand was LG.

128

129 Mr. Saul asked if there wasn't 50 feet available on the line. Mr. Spaulding confirmed, stating
130 that he would then have to come out of the wall, and back in the wall. Mr. Saul suggested that he
131 could go under the ground with the line, up to 50 feet away from the unit inside.

132

133 Chairman Byrnes stated that the Board needed to focus on the proposed variance, and did not
134 feel that it was our purview to propose alternate options. We need to either vote yes or no on this
135 variance.

136

Adjournment

138 Ms. Stewart moved to close the public hearing.

139 Mr. Uckotter seconded the motion.

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

141

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

143

Business Session (1)

145 *A request for a reconsideration for a variance from Patricia Spaulding, property owner of*
146 *9835 Zig Zag Road, to allow an HVAC unit to be located in the front yard, where HVAC units*
147 *are permitted only in the side and rear yards, per Schedule 151.1009(C) of the Montgomery*
148 *Zoning Code.*

149

150 Ms. Stewart felt that the window unit was unsightly, and she preferred the ground unit with
151 foliage around it. There was more discussion about the foliage, and the detriment it could be to
152 the unit. Ms. Hays suggested that they place a condition for the applicant to work with Staff so
153 that it is installed appropriately and safely, to screen it from the road.

154

155 Chairman Byrnes agreed with Ms. Stewart.

156

157 Mr. Molloy pointed out the list in the Board's packet, provided by the Spauldings, that showed
158 other neighbors with units in their front yards. He understood that owning a corner lot with two
159 front yards was problematic. Given the configuration of the house, he did not have any problem
160 with granting this variance.

161

162 *Mr. Uckotter moved to approve the request from Patricia Spaulding, property owner of 9835*
163 *Zig Zag Road, Montgomery, Ohio 45242 to allow an HVAC unit to be located in the front*

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Board of Zoning Appeals Meeting

January 25, 2022

164 *yard, where HVAC units are permitted only in the side or rear yards, per Schedule*
165 *151.1009(C) of the Montgomery Zoning Code, as described in the City of Montgomery Staff*
166 *Report dated January 21, 2022, with the condition that landscaping be subject to Staff*
167 *approval.*

168
169 *This approval is justified by criteria # 1, 2, 3, 4, 5, 6, 7, 8, 9 &10, as outlined in Montgomery*
170 *Codified Ordinance Chapter 150.2010 (d) for granting variances.*

171
172 *Mr. Molloy seconded the motion.*

173
174 *The roll was called and showed the following vote:*

175
176 *AYE: Ms. Stewart, Mr. Fossett, Mr. Uckotter, Mr. Molloy, Chairman Byrnes (5)*
177 *NAY: Mr. Saul (1)*
178 *ABSENT: Mr. White (1)*
179 *ABSTAINED: (0)*

180
181 *This motion is approved.*

Adjournment

184 Mr. Saul moved to close the business session.

185 Mr. Uckotter seconded the motion.

186 The business session adjourned at 7:28p.m.

187
188 Chairman Byrnes opened the public hearing at 7:28p.m.

New Business (2)

191 *A request for a variance from Jeff and Kate Stechsulte, property owners of*
192 *7455 Stonemeadow Lane, Montgomery, OH 45241 to allow for a covered porch to have a*
193 *setback of 30 feet from the rear property line, where 35 feet is required, per Schedule 151.1005*
194 *of the Montgomery Zoning Code.*

Staff Report

197 Ms. Hays reviewed the Staff Report dated January 25, 2022, “Application for Variance: Jeff and
198 Kate Stechsulte”. Ms. Hays stated that there were 13 residents that supplied their signatures to
199 the Stechsulte’s in favor of this variance. One resident had drainage concerns.

200 Ms. Hays asked for any questions.

201
202 Mr. Fossett asked how the drainage easement affects this, how it creates a hardship. He stated
203 that the covered porch was not restricted in any way by the easement. It looked to him that it
204 was going right up to it. It is going 5 feet into the 35 foot setback, but it was not encroaching, or
205 restricted in any way by the draining easement. Ms. Hays stated that nothing can be placed
206 within that easement – that is the hardship; essentially their entire rear yard is unusable because
207 of the drainage easement. They can’t put in a pool or a shed.

208

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Board of Zoning Appeals Meeting

January 25, 2022

209 Mr. Fossett reiterated that there was nothing about the drainage easement that is affecting this
210 proposed structure. Ms. Hays agreed, but they could not have the option to build a gazebo
211 because there is nowhere else they can place anything.

212
213 Mr. Fossett asked if a detached covered structure had the same 35 foot setback. Ms. Hays
214 confirmed; depending on the size, it would be a 5 or 15 foot setback.

215
216 Ms. Stewart asked if they were, in essence, covering an existing patio space. Ms. Hays
217 confirmed, noting that this may be a bit larger, because of the shape change, but it is in the same
218 location.

219
220 Mr. Molloy asked if there have been any other requests related to covered patios. Ms. Hays was
221 not aware of any, but thinks there may have been covered decks.

222
223 **Jeff & Kate Stechschulte, 7455 Stonemeadow Lane, Montgomery, OH 45242** stated that
224 they have a challenging backyard, with the drainage easement. Their existing patio was based on
225 the 30 foot setback; they are actually reducing the existing depth of the patio with this approach.
226 They would like to entertain, have a fireplace with some seating, and a built-in grill. He stated
227 that they were working with an architect, have seen several renditions, and this is the optimum
228 design. Mr. Stechschulte stated that the sun is over the patio the entire day. They had tried to
229 use umbrellas, but that was limited, so having a roof with a fan would allow them to use it more
230 in the summer. He stated that they have several neighbors on Jolain who have added covered
231 patios. Mr. Stechschulte stated that it would be open air, and it was a distance from their
232 neighbors, and would not be visible from Stonemeadow.

233
234 Mr. Molloy asked if the existing perimeter and the patio itself would remain, or if it would be
235 altered. Mr. Stechschulte stated that the depth would not be changed, but it will extend an
236 additional 5 feet.

237
238 Chairman Byrnes pointed out that one of the neighbors had concerns about water.
239 Mr. Stechschulte stated that the downspouts would go into the ground, and into pipes
240 accordingly. Chairman Byrnes asked if they would go out to the front to the storm sewer.
241 Mr. Stechschulte stated that they haven't gotten that far with the design, but it is possible that
242 they could do it. Mr. Stechschulte stated that it was a minimal change, in terms of the area of
243 impervious material.

244
245 Ms. Hays stated that the drainage easement runs from the west to the east. She stated that she
246 would look into this with the applicant to mitigate any negative impact to the neighbors to the
247 south.

248
249 There were no more questions from the Board.

250
251 **Adjournment**

252 Mr. Saul moved to close the public hearing.

253 Mr. Molloy seconded the motion.

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Board of Zoning Appeals Meeting

January 25, 2022

254 The public hearing adjourned at 7:43p.m.

255

256 Chairman Byrnes opened the business session at 7:43p.m.

257

Business Session (2)

259 *A request for a variance from Jeff and Kate Stechschulte, property owners of*
260 *7455 Stonemeadow Lane, Montgomery, OH 45242 to allow for a covered porch to have a*
261 *setback of 30 feet from the rear property line, where 35 feet is required, per Schedule 151.1005*
262 *of the Montgomery Zoning Code.*

263

264 Ms. Stewart asked if the City would review that drainage plan, once they got that far. Ms. Hays
265 stated that they would review it. She was unsure where this water discharged for this home, she
266 thought there was a catch basin in the street that was nearby, but they may also be able to work
267 with the existing drainage easement. If so, they will make sure that it doesn't directly discharge
268 into the neighbor's rear yard. Ms. Hays stated that they will take this into consideration, when
269 they do the review.

270

271 Ms. Stewart stated that you couldn't see it from the street, either way. Mr. Uckotter stated that
272 this would set a precedent for other homes to do this, on that street. Chairman Byrnes did not
273 see that as being a problem. Ms. Hays stated that there were 3 or 4 houses on Stonemeadow that
274 have that drainage easement in the rear yard.

275

276 Mr. Molloy did feel that we needed to be somewhat cautious as to how much of a variance we
277 allowed. He felt that 15% was reasonable, but any more than that would be too much.

278

279 *Mr. Molloy moved to approve the request for a variance from Jeff and Kate Stechschulte,*
280 *property owners of 7455 Stonemeadow Lane, Montgomery, OH 45241 for a covered porch in*
281 *the rear yard, to have a rear yard setback of 30 feet, where 35 feet is required, per Schedule*
282 *151.1005 of the Montgomery Zoning Code, as described in the City of Montgomery Staff*
283 *Report dated January 25, 2022. This approval is in accordance with the site plan dated*
284 *October 7, 2021.*

285

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

288

289 *Mr. Uckotter seconded the motion.*

290

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

292

293 *AYE: Mr. Saul, Ms. Stewart, Mr. Fossett, Mr. Uckotter, Mr. Molloy, Chairman Byrnes (6)*

294 *NAY: (0)*

295 *ABSENT: Mr. White (1)*

296 *ABSTAINED: (0)*

297

298 *This motion is approved.*

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Board of Zoning Appeals Meeting

January 25, 2022

299

Adjournment

301 Mr. Saul moved to close the business session.

302 Mr. Fossett seconded the motion.

303 The business session adjourned at 7:48p.m.

304

305 Chairman Byrnes opened the public hearing at 7:48p.m.

306

New Business (3)

308 *A request for a variance from property owners, David and Mary Robertshaw, 10722 Adventure*
309 *Lane, Montgomery, OH 45242, to allow for an accessory structure to have a setback of 5 feet*
310 *from the side property line, where 15 feet is required, per Schedule 151.1009(B) of the*
311 *Montgomery Zoning Code.*

312

313 Mr. Saul recused himself, as he lived within 300 feet of this applicant.

314

Staff Report

316 Ms. Hays reviewed the Staff Report dated January 25, 2022, "Application for Variance: David
317 and Mary Robertshaw".

318

319 Ms. Stewart asked Staff that if the applicant was not granted this variance, would they even be
320 able to pull a car in? Ms. Hays deferred to the applicant.

321

322 **David Robertshaw, 10722 Adventure Lane, Montgomery, OH 45242** stated that he and his
323 family have been in their home for about 4 years. He stated that they have engaged Wentz
324 Design to ensure that the exterior, which includes their front porch, a back patio and this
325 accessory structure, works well with the architecture of their home. This accessory structure will
326 be visible from the street and they want it to complement the property. The back patio fits within
327 all of the setbacks – 35 feet from the back property, and 15 feet from the side. They have looked
328 at many options – extending the garage, building next to the garage, and it doesn't work. They
329 have looked at placing it in different spots in the yard, and there is nowhere else.

330

331 Mr. Robertshaw stated that they have a lot of sports equipment, bikes and strollers. They would
332 like to be able to park their car in there, and this proposal is their best option.

333

334 He responded to Ms. Stewart that he did not feel that a car could comfortably fit in a 200 square
335 foot structure; you would need 264 square feet to fit a car reasonably, to be able to open the
336 doors without hitting them on something. He stated that until his 4 children start to drive, it will
337 be bike storage and office space. Perhaps in 6 or 7 years, it can be used as a garage.

338

339 He introduced Erin Seger of Wentz Design.

340

341 **Erin Seger, Wentz Design, 7813 Ted Gregory Lane, Suite C, Montgomery, OH 45242**
342 stated that she does not believe a car would fit into a 200 square foot structure. She needed at
343 least 22 feet of depth, and 12 feet of width, to reasonably fit a car in (264 square feet).

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Board of Zoning Appeals Meeting

January 25, 2022

344
345 Mr. Robertshaw stated that he mailed letters and tried to communicate with his neighbors.
346 He received some additional responses to those that he had already submitted to Staff. Staff took
347 the responses and copied for all of the Board.

348
349 Mr. Uckotter asked about the neighbor who lived directly next door. Mr. Robertshaw stated that
350 Mr. Moreno did not write a letter; but he had spoken with him about this proposal. The only
351 comment he had was about the HVAC unit that might be part of it, since the office is in there.
352 Mr. Robertshaw stated that if it were to be one of the mini-split systems, it would be located on
353 the rear of the structure, and not on the side. Mr. Moreno's garage would be pointed at this, so it
354 is not like he would be looking at this garage.

355
356 Mr. Molloy asked if Mr. Moreno was more concerned with the visual or the sound.
357 Mr. Robertshaw did not feel it would affect him visually or sound-wise. Mr. Moreno would see
358 it when he walked out of his garage, because his garage points that way.

359
360 Ms. Hays stated that Mr. Moreno had reached out to her a while ago. She went over the site plan
361 with him, and he did not express any concerns.

362
363 Mr. Robertshaw stated that the letters and supporting documents were from the neighbors that
364 could visibly see this garage (aside from Mr. Moreno). Across the street, the neighbors were
365 supportive of this variance.

366
367 Mr. Uckotter stated that he had visited their property, and was looking into the corner. He asked
368 if the west side of the proposed accessory structure lined up with the street wall along Adventure
369 Lane, or did it extend out, closer to Adventure Lane, than the neighboring home. Mr. Robertshaw
370 stated that it was actually a bit behind the front of that house. Ms. Seger referred to the Cagis
371 map and confirmed that it was definitely behind.

372
373 Mr. Uckotter asked why they couldn't build that structure next to the existing garage, in that
374 corner. Mr. Robertshaw stated that the exterior door from the garage was in that location, and
375 next to the door was a window into the family room. So they would lose the daylight into the
376 family room in that corner, and the exterior door would have to be moved. In addition, they are
377 trying to place a patio in that corner, in the back of the house. It would also take those roof lines
378 and run it into the other roof lines, and make it more complicated. Also, the roof of the garage
379 would go up another 5 feet, to make the new higher point of that roof, and that would interfere
380 with an exterior window on the second floor. So, they would lose two windows by doing that.

381
382 Mr. Uckotter asked why they didn't place the patio on the eastern corner where the existing patio
383 was, and then place the accessory structure more to the corner, or shift it to the east side of the
384 home. Erin Seger stated that they would have needed a variance for that as well, because it
385 would have been over the 35 foot rear yard setback, plus there were existing meters, and electric
386 that would need to be relocated.

387
388 There were no more questions from the Board.

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Board of Zoning Appeals Meeting

January 25, 2022

389

Adjournment

391 Mr. Uckotter moved to close the public hearing.

392 Mr. Molloy seconded the motion.

393 The public hearing adjourned at 8:10p.m.

394

395 Chairman Byrnes opened the business session at 8:10p.m.

396

Business Session (3)

398 *A request for a variance from property owners, David and Mary Robertshaw, 10722 Adventure*
399 *Lane, Montgomery, OH 45242, to allow for an accessory structure to have a setback of 5 feet*
400 *from the side property line, where 15 feet is required, per Schedule 151.1009(B) of the*
401 *Montgomery Zoning Code.*

402

403 Mr. Molloy stated that there were a lot of competing numbers to try to fit this into, as the setback
404 would be 5' if the building was 200 square feet or less. He was concerned that they were asking
405 for 67% - a significant difference, from 5 feet to 15 feet. He stated that 264 square feet was 32%
406 larger than 200 square foot, which was the minimum. Mr. Molloy felt that the difference
407 between 200 and 264, in terms of the base of the building, was not much – it was 2 feet in width,
408 and 3 feet in length – you wouldn't know the difference. He felt that this was primarily a setback
409 issue, given how it fits into that property, with trees, and the significant amount of front yard
410 they had.

411 Mr. Molloy felt this was an appropriate variance. He felt there were unusual circumstances that
412 warranted this variance, and would not set precedent. For example, the shape of the property, the
413 curvature of the road, and the existing trees.

414

415 Ms. Hays wanted to give an example of space required for a car in this space. She stated that our
416 code stated that a 2-car detached structure maximum was 576 square feet; half of that was 288 –
417 and the applicant's request was a bit less than that.

418

419 There were no more comments or questions.

420

421 *Mr. Molloy moved to approve the request for a variance from property owners, David and*
422 *Mary Robertshaw, 10722 Adventure Lane, Montgomery, OH 45242, to allow for an accessory*
423 *structure to have a side yard setback of 5 feet along the south property line, where a side yard*
424 *setback of a minimum of 15 feet is required, per Schedule 151.1009(B) of the Montgomery*
425 *Zoning Code, as described in the Staff Report dated January 25, 2022. This approval is in*
426 *accordance with the site plan dated December 6, 2021.*

427

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

430

431 *Mr. Fossett seconded the motion.*

432

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

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Board of Zoning Appeals Meeting

January 25, 2022

434
435 *AYE: Mr. Molloy, Ms. Stewart, Mr. Fossett, Chairman Byrnes* (4)
436 *NAY: Mr. Uckotter* (1)
437 *ABSENT: Mr. White* (1)
438 *ABSTAINED: Mr. Saul* (1)

439
440 *This motion is approved.*

441
442 **Adjournment**
443 Mr. Uckotter moved to close the business session.
444 Mr. Molloy seconded the motion.
445 The business session adjourned at 8:15p.m.

446
447 Chairman Byrnes opened the public hearing at 8:15p.m.

448
449 Mr. Saul took his seat on the Board.

450
451 **Other Business**
452 Ms. Bismeyer had no updates for the Board.

453
454 Ms. Hays asked if there were any questions about Terry Donnellon's letter of January 25
455 regarding Ohio Ethics Law.

456
457 Mr. Molloy brought up another point that should be addressed, and that is if you know the
458 applicant, and if you felt that you could render an impartial vote.

459
460 Mr. Fossett stated that if a public official was doing their job, he/she will know a lot of people in
461 the community that they are making decisions for. He didn't feel that you needed to recuse
462 yourself just because you knew someone.

463
464 Mr. Molloy asked if there was a limit as to how many requests were permitted in a meeting, and
465 how long it would be. Staff stated there was not.

466
467 Ms. Hays stated that when there was more available time, she would ask Terry Donnellon to
468 come in, as well as the Police Chief, to provide some training for the Board.

469
470 **Minutes**
471 Mr. Fossett moved to approve the minutes of December 28, 2021, as amended.
472 Mr. Molloy seconded the motion.
473 The Board unanimously approved the minutes.

474
475

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Board of Zoning Appeals Meeting

January 25, 2022

476 **Adjournment**

477 Ms. Stewart moved to adjourn. Mr. Saul seconded the motion.

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

479

480

481

482

483

484 _____
Karen Bouldin, Clerk

Date

485

486 /ksb

487

DRAFT