

Board of Zoning Appeals Agenda
May 23, 2023
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

10630 Convo Court – Ryan and Lucy Steadman, property owners, are requesting a variance to allow a 4' high fence in the front yard area, where 2' is the maximum permitted per Section 151.1009(I)(1) of the Montgomery Zoning Code.

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

CITY OF MONTGOMERY BOARD OF ZONING APPEALS

Application for Variance: *Ryan and Lucy Steadman*

May 24, 2023
Staff Report

Applicant: Ryan and Lucy Steadman
10630 Convo Court
Montgomery, OH 45242

Property Owner: Same as above

Vicinity Map:



Nature of Request:

The applicants are requesting a variance to allow fencing 4' in height in the front yard area along Weller Road, where Section 151.1009(I)(1) of the Montgomery Zoning Code does not permit fences over two feet in height in the front yard.

Zoning:

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

Findings:

1. The property is approximately 41,120 square feet in size, which exceeds the 20,000 square foot minimum for the 'A' District.
2. The house was built in 1996 and conforms to all setback requirements in the 'A' District.
3. The property is a corner lot on Convo Court and Weller Road. With the property being located along the bend of Weller Road, there are a total of three front yard areas and one side. This leaves no rear yard area in accordance with the definition in the Zoning Code. However, the eastern portion currently functions for the applicants as a backyard.



4. Chapter 151.1009 of the Montgomery Zoning Code states that fences and walls over 2 feet high may not be located in any part of the front yard.

5. The zoning code was changed in 2002 to limit the height of fences in the front yard to 2 feet. Prior to the code change, fences could be a maximum of 4 feet in height in front yards.
6. The applicant is proposing a Kentucky board style fence 4' in height be placed inside of a majority of the existing landscaping. The proposed placing of the fence varies in setback around the bend of Weller Road, ranging from a 6' setback to 31' setback from the right of way.

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?*

While corner lots are relatively common, a lot encompassing an entire bend of a roadway preventing a rear yard area is extremely unique. The bend along Weller Road eliminates the possibility of the property having a typical rear yard area.

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

The property will yield a reasonable rate of return without granting the variance, as it is not uncommon for properties to not have any fencing.

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

The variance is substantial because the applicant is proposing a fence which is two times taller than what is allowed in the front yard by the zoning code. The applicant is, however, attempting to minimize the visibility from the street by proposing the fence be located behind the existing tree line and setback from the right of way.

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

Staff is somewhat concerned that the character of the neighborhood would be altered by granting the variance as depicted on the site plan with the fence extending out into the front yard, as fences in the front yard are not common. However, with the property being located along a large bend in the roadway and the current placement of the house, the area proposed to be encompassed by the fence functions as a typical backyard.

In addition, there is existing fencing directly across the street in front of homes of the Woodgate Subdivision. This fence is located approximately 5' behind the right of way line. A picture of the fencing is shown below:



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

Local government services would not be affected by granting the variance.

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

The owners have stated they were aware of the zoning restraint.

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

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

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

The applicant could erect a fence which is only two feet in height. Due to the lot not having a rear yard area, there is nowhere for the applicant to install a standard size fence on the property. Installation of a fence cannot be feasibly obviated through some other method.

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

It is clear in section 151.1009 that fences should not exceed two feet in height in the front yard. The intent of this regulation is to keep the front yards of lots within the City open and un-cluttered, while still allowing for taller fences to be erected in the side and rear yard to provide for private outdoor spaces. However, due to the layout of the lot along a bend on a collector road, placement of the existing house facing Convo Court, and proposed placement of fence behind existing foliage, staff is of the opinion that the spirit and intent behind the zoning requirement would be observed.

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

The following requests for a variance regarding fence height in the front yard have been considered by the Board of Zoning Appeals since the adoption of the regulation in 2002:

- A variance to allow a wrought-iron fence four feet in height was granted for a property located at 7942 Cooper Road on May 22, 2007. This property is zoned 'A' Single Family Residential and is located in the Heritage District. Since this variance request, the Zoning Code has been changed to allow for four foot wrought-iron fences in the front yard in the Heritage District.

- A variance to allow a split rail fence four feet in height was denied for a property located at 10016 Zig Zag Road on February 26, 2008. This property was also zoned 'A' Single Family Residential and was adjacent to the I-71 sound wall. The applicant was proposing to erect the fence in the front yard approximately 23' from Zig Zag Road.
- In September 2013, the Board of Zoning Appeals granted a variance to allow for a 6' high fence/wall in the front yard along Ted Gregory Lane for the new home being constructed at 7813 Remington Road. This property is a through lot and abutted commercially zoned property.
- In October 2013, the Board of Zoning Appeals granted a variance to allow for a 6' high fence/wall in the front yard along Ted Gregory Lane for the new home being constructed at 7797 Remington Road. This property is a through lot and abutted commercially zoned property.
- In January 2016, the Board of Zoning Appeals granted a variance to allow a 4' high split rail fence be located along the front yard property line at 7820 Campus Lane. This was a corner lot with non-conforming side yard setbacks, square footage and front yard setbacks.
- In May 2016, the Board of Zoning Appeals denied a variance to allow a 4' high fence to be located in the front yard area of a corner lot surrounding a pool at 8611 Hetheridge Lane.
- In November 2017, the Board of Zoning Appeals approved a variance to allow 94' of fencing, 3' in height in the front yard area of 10538 Adventure Lane. The fence was a replacement of an existing legal non-conforming fence that was located approximately 35' from the front property line.
- In January 2021, the Board of Zoning Appeals approved a variance to allow a 4' high fence to extend a 10' into the front setback in order to go around an existing pine tree at 10658 Weil Road. The fencing was located approximately 55' from the front property line.
- A variance to allow a split rail fence four feet in height was denied for a property located at 8755 Monte Drive on

October 25, 2022, by the Board of Zoning Appeals. This was a corner lot.

Staff Comments and Recommendations

Staff realizes that having a corner lot limits the area in which the property owner can make improvements. This lot is not only a corner lot but encompasses the bend along Weller Road creating a unique situation where there is no rear yard area by definition. In addition, Weller Road is classified as a collector road per the Hamilton County Thoroughfare Plan, which further highlights the higher volume of traffic passing along the front yard of the lot in question.

Staff can understand the desire to incorporate fencing to provide a more defined backyard for the property, while adding a safety barrier for pets and children. Staff believes that the request is reasonable, as the applicant is proposing to locate the fence inside existing vegetation and outside of the public right of way. However, Staff also understands that there may be somewhat of a visual impact, as the fence may be visible for sections along Weller Road.

With the potential visibility of the fence along Weller Road, Staff had the City Engineer complete an evaluation for potential sight distance issues from the intersection of Convo Court and Weller Road, as well as visibility from the driveway located at 8271 Weller Road. The opinion of the City Engineer is that the fence as proposed would minimally impact visibility from either location. Please find a memo from the Engineer in your packet.

Should the variance be approved, Staff would recommend placing a condition that the approval be based on substantial compliance with fence type submitted in the application.

Granting the variance to allow the proposed fence to be four feet in height in the front yard at 10630 Convo Court would be justified by criteria #1, 3, 4, 5, 7, 8, 9, and 10.

April 7th, 2023

CITY OF MONTGOMERY BOARD OF ZONING APPEALS MEMBERS AND STAFF

10101 MONTGOMERY ROAD, MONTGOMERY, OH
45242

Good day Montgomery city officials. We write to you today as 13 year residents of Montgomery as a family of five with two small dogs. Our three boys are 12, 10 and 7 and love playing outdoors on our great cul de sac with friends and enjoy playing in our large back yard. We relocated to this house 2 years ago from another house across the street on Convo Court. We are requesting a variance to allow us to fence in our back yard to not only keep our kids and dogs safe and comfortable, but to also improve the look of the property for the many people who drive and walk the Weller path daily. It hurts me to also state that living on a busy corner street, the fence would also help prevent the frequent liter (sometimes glass bottles) and other pet waste that frequent my yard where my kids and their friends play.

We request this approval knowing this will not only improve my property but also improve the safety of children who frequent our home and would also match the style fences that many homes have that have Weller road as a border.

SINCERELY,

RYAN AND LUCY STEADMAN
513-675-2593

10630 Convo Court, Montgomery, OH 45242



APPLICATION FORM

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

Project Address (Location): 10630 Convo Court, Montgomery OH 454242

Project Name (if applicable):

Auditors Parcel Number: 603-0020-0106-00

Gross Acres: 0.944 Lots/Units 1 Commercial Square Footage 3,656

Additional Information:

PROPERTY OWNER(S) Ryan and Lucy Steadman Contact 513-675-2593

Address 10630 Convo Court Phone: 513-675-2593

City Montgomery State OH Zip 45242

E-mail address ryan.steadman6@gmail.com

APPLICANT Ryan and Lucy Steadman Contact 513-675-2593

Address 10630 Convo Court Phone: 513-675-2593

City Montgomery State OH Zip 45242

E-mail address ryan.steadman6@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

[Handwritten signature]

ONLY

[Handwritten signature: Lucy Steadman]

FOR DEPARTMENT USE

Print Name

Ryan & Lucy Steadman

Date 4/7/2023

| |
|----------------|
| Meeting Date: |
| Total Fee: |
| Date Received: |
| Received By: |



APPLICATION REQUIREMENTS FOR A DIMENSIONAL VARIANCE

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

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



Consideration for Approval of Dimensional Variances

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

1. Whether special conditions and circumstances exist which are peculiar to the land or structure and which are not applicable to other lands or structures in the same zoning district. Examples are narrowness, shallowness or steepness of the lot, or adjacency to non-conforming uses.

Large corner lot with boundaries of Weller Road walking path and neighboring fences.

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

Potentially depending on buyer with young kids and/or dogs.

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

No. Fence would be placed within the current property tree/shrub privacy outlines and confirm to similar 3 post/mesh fencing that exists on many homes with Weller as the backstop.

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

No

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

No



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

Yes

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

No

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

No- fencing requested to keep young children and small dogs safe and out of the busy street or neighboring properties. Also will help prevent some of the current littering that gets into my yard including sometimes glass bottles and other pet owners waste as well.

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

Yes. I believe it would also improve the look of the property from neighbors and those driving on Weller Road.

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

Not to my knowledge



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 10630 Convo Court, Montgomery OH 45242, we hereby grant permission to Members of the Board of Zoning Appeals and City of Montgomery Staff to enter the property for visual inspection of the exterior premises. The purpose of said inspection is to review the existing conditions of the subject site as they relate to the application as filed to the Board of Zoning Appeals.

Property Owner(s) Signature *Ryan Steadman* *Lucy Steadman*
Print Name Ryan & Lucy Steadman
Date 4/7/2023

Board of Zoning Appeals Members:

Mary Jo Byrnes

Tom Molloy

Catherine Mills Reynolds

Bob Saul

Jade Stewart

Steve Uckotter

Richard White



COUNTY AUDITOR ON-LINE

Hamilton County Auditor Brigid Kelly

138 East Court St., Cincinnati, Ohio 45202- (513)946-4000


Online Property Access

< First << Prev Next >> Last >

[RETURN TO SEARCH LIST](#)

Property 6 of 8

Parcel ID 603-0020-0106-00 **Address** 10630 CONVO CT **Index Order** Parcel Number **Tax Year** 2022 Payable 2023

| Property Information | | |
|---|---|--|
| Tax District | 211 - MONTGOMERY-SYCAMORE CSD | |
| School District | SYCAMORE CSD | |
| Appraisal Area | Auditor Land Use |  |
| 60316 - MONTGOMERY 16 | 510 - SINGLE FAMILY DWLG | |
| Owner Name and Address | Tax Bill Mail Address | |
| STEADMAN RYAN & LUCY 10630 CONVO CT CINCINNATI OH 45242 (call 946-4015 if incorrect) | UNION SAVINGS BANK 8805 GOVERNERS HILL DRIVE ATTN: ESCROW DEPT CINCINNATI OH 45249 (Questions? 946-4800 or treasurer.taxbills@hamilton-co.org) | |
| Assessed Value | Effective Tax Rate | Total Tax |
| 194,170 | 66.852532 | \$11,700.85 |
| Property Description | | |
| CONVO CT 0.9443 AC R1-T4-S5 | | |

| Appraisal/Sales Summary | |
|-------------------------|-------------------------------|
| Year Built | 1996 |
| Total Rooms | 8 |
| # Bedrooms | 4 |
| # Full Bathrooms | 3 |
| # Half Bathrooms | 1 |
| Last Transfer Date | 7/9/2021 |
| Last Sale Amount | \$659,000 |
| Conveyance Number | 272763 |
| Deed Type | SV - Survivorship Deed (Conv) |
| Deed Number | |
| # of Parcels Sold | 1 |
| Acreage | 0.944 |

| Tax/Credit/Value Summary | |
|--------------------------|-------------------|
| Board of Revision | YES(03) |
| Rental Registration | No |
| Homestead | No |
| Owner Occupancy Credit | Yes |
| Foreclosure | No |
| Special Assessments | Yes |
| Market Land Value | 122,100 |
| CAUV Value | 0 |
| Market Improvement Value | 432,670 |
| Market Total Value | 554,770 |
| TIF Value | 0 |
| Abated Value | 0 |
| Exempt Value | 0 |
| Taxes Paid | \$5,853.00 |
| Tax as % of Total Value | 2.108% |

Notes
1) 7-2-98 DWLG 100% FOR 1998

2023 is a reappraisal year for Hamilton County. Please review your property's data and mailing addresses for accuracy. Email Auditor.Kelly@auditor.hamilton-co.org with any data or mailing address corrections.

I Want To...

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

View:

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

Print:

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

7:32

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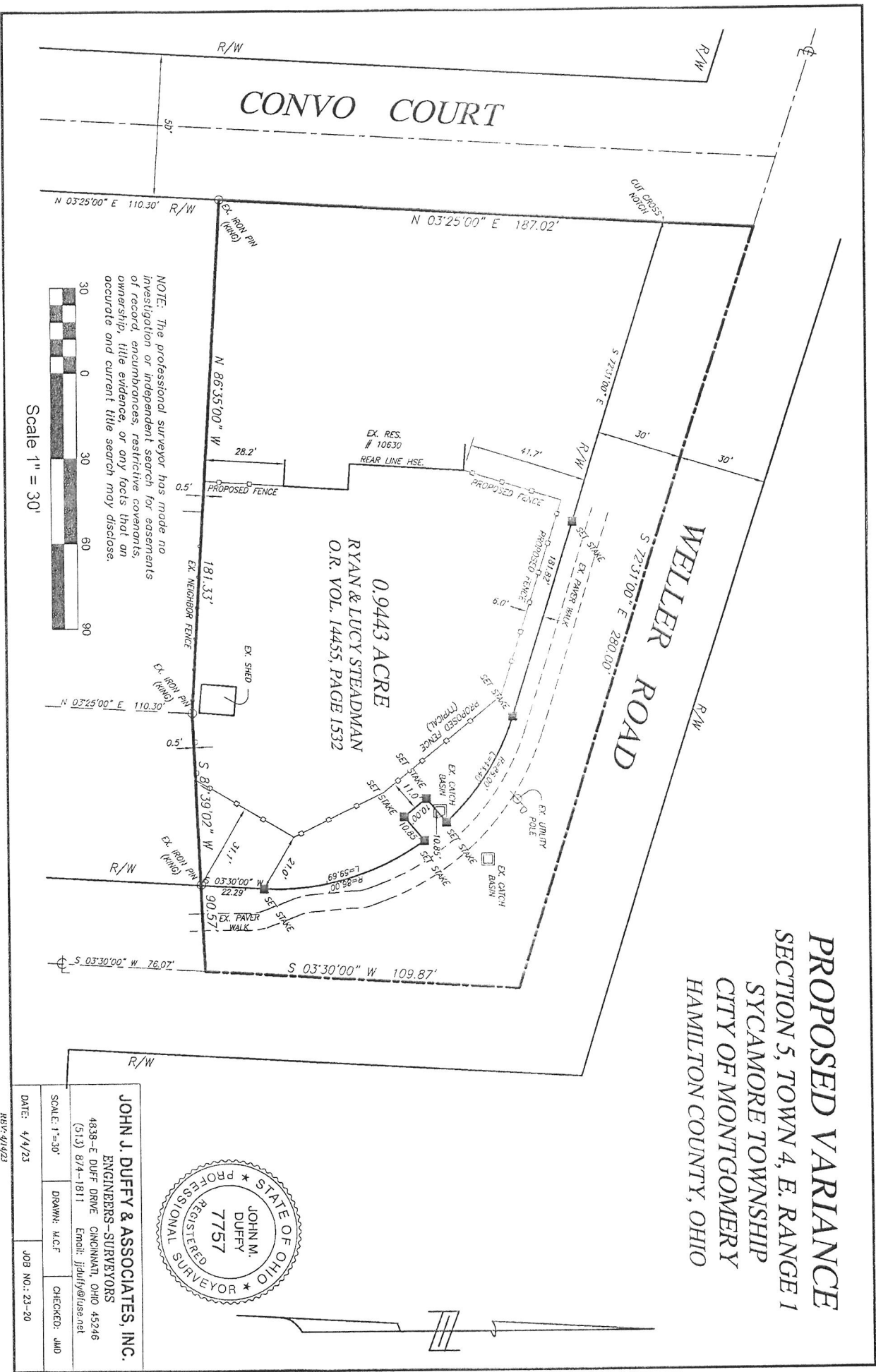
🔒 www.cincyfence.com





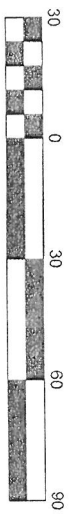


PROPOSED VARIANCE
SECTION 5, TOWN 4, E. RANGE 1
SYCAMORE TOWNSHIP
CITY OF MONTGOMERY
HAMILTON COUNTY, OHIO



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.

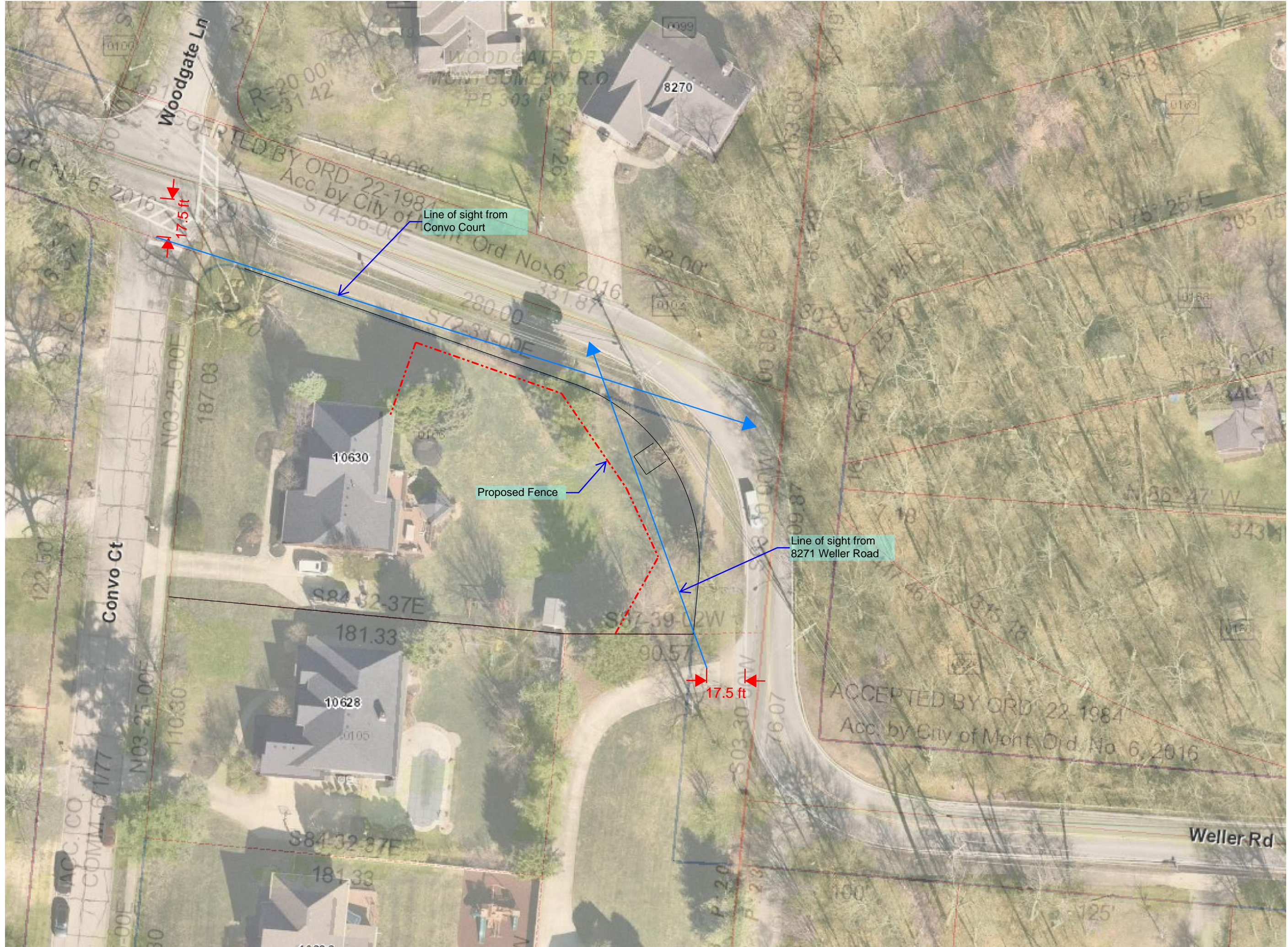
Scale 1" = 30'



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

| | | |
|---------------|---------------|----------------|
| SCALE: 1"=30' | DRAWN: M.C.F. | CHECKED: JMD |
| DATE: 4/4/23 | | JOB NO.: 23-20 |

REV: 4/4/23



17.5 ft

Line of sight from Convo Court

Proposed Fence

Line of sight from 8271 Weller Road

17.5 ft

Convo Ct

Woodgate Ln

Weller Rd

10630

10628

8270

WOODGATE OF MONTGOMERY R.O.
PB 303 P 37

ACCEPTED BY ORD. 22-1984
Acc. by City of Mont. Ord. No. 6, 2016

ACC. CO.
COMM. 6/177

ACCEPTED BY ORD. 22-1984
Acc. by City of Mont. Ord. No. 6, 2016

ACC. CO.
COMM. 6/177

ACC. CO.
COMM. 6/177

N03-25-00E
187.03

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110.30

S84-32-37E
181.33

S84-32-37E
181.33

S72-31-00E
280.00

S87-39-02W
90.57

S03-30-00W
76.07

S48-30-00W
48.60

S80-36-00E
80.36

S80-36-00E
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S80-36-00E
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N75-25'E
305.15

N73-40'W
340.45

N86-47'W
343.4

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S74-56-00E
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Memorandum

To: Melissa Hayes, AICP, Montgomery City Planner
From: Jay Korros, PE, PTOE, Senior Traffic Engineer
Subject: Proposed Fence variance at 10630 Convo Court
Date: May 18, 2023

An evaluation of the proposed fence at 10630 Convo Court was completed as requested by the City of Montgomery to provide our professional opinion if the proposed fence would impact sight for motorists exiting from Convo Court onto Weller Road and impact the sight for motorists exiting the residence at 8271 Weller Road, located immediately adjacent to 10630 Convo Court.

During the field visit we observed the right of way staked with pink tape as indicated in the plan submitted by the property owners requesting the variance for the proposed fence. This helped to visualize where the proposed fence will be placed while waiting to exit the driveway at 8271 Weller Road. From that view it appears the proposed fence would be mostly, if not completely, behind the view from a motorist exiting onto Weller. Additionally, the closer a motorist moves toward Weller Road to exit the driveway at 8271 the further away the fence would be behind their view. Please refer to attached document showing sight lines from Convo Court and the driveway at 8271 Weller Road in addition to pictures of sight exiting driveway.

Based on the attached information and the field visit it is our opinion that the proposed fence would not impact the view of a motorist exiting from Convo Court onto Weller Road and a motorist exiting from the driveway at 8271 Weller Road.

City of Montgomery Community Development Department
10101 Montgomery Rd.
Montgomery, OH 45242

RE: Ryan and Lucy Steadman Variance Request

Board of Zoning Appeals,

Thank you for sending notice of this variance request. I truly appreciate the opportunity to make a comment on the variance requested by Ryan & Lucy Steadman

My wife, Karen, and I moved to Montgomery thirty-three years ago. We have been involved with the community and became dear friends with many Montgomery residents as we raised our five children in our home on Wellerwoods. Karen recently retired after 25 years of service to Sycamore Schools which only deepened our involvement with the community.

One of the reasons we have enjoyed the last thirty years living in Montgomery is the city's focus on resident and community safety. When we first moved to our home, we were concerned with safety when walking to the shops/restaurants at the corner of Weller and Montgomery Rd. There were no sidewalks so we had to walk in the street thru the Weller Rd "S" turn to get to the shop/restaurants. Montgomery, listening to its residents and with a focus on resident safety, made plans and installed walking paths along the major roads in Montgomery. The path along Weller Rd greatly improved the safety for our family and every resident who uses the path since it's been installed. It's an excellent example of Montgomery's focus on safety.

Back to the property mentioned in the variance. Traveling Weller Rd at least twice every day for thirty-three years, I've observed changes to the neighborhood. I watched the original, dated ranch at 10630 Convo be replaced with a beautiful home in 1997. I watched the first residents of the property, Bretz and Griffith, add and maintain some amazing landscaping around the side and back of the home. This provided them a great visual barrier as they enjoyed their home.

Over the years though, I always thought how difficult it would have been to raise our five children in the home. We would have been constantly concerned for the safety of our children playing right next to Weller Road. I realize the Bretz and Griffith's may not have had reasons to prioritize a physical barrier and didn't request a variance. Their landscaping provided an amazing visual barrier. It did not, however, provide for the safety of children playing in the yard.

Anyone involved with this discussion would admit a 2 ft fence, currently allowed, would do nothing to improve the safety. I believe, in fact, denying the variance for a 4 ft fence would be totally against one of the core Montgomery principles – community safety. I fully support the Steadman's request for a variance to install a 4 ft high fence around the side and back of their property as shown on the diagram provided.

I am happy to talk to any member who would like to discuss this further.

Best regards,



Dave Naber

10745 Wellerwoods Rd
Ph: 513.235.1141
Email: david.j.naber@gmail.com

*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

April 25, 2023

| <u>PRESENT</u> | | |
|--|--|--|
| <u>GUESTS & RESIDENTS</u> | | <u>STAFF</u> |
| Mr. Italy Azouz 10301 Peachtree Lane, 45242 | Greg Lange Swath Design 30 Garfield Place, Ste 1020 Cincinnati, OH 45202 | Kevin Chesar Community Development Director |
| Mike Frazer 5325 Cooper Road Montgomery, OH 45242 | Brad Lovell Sycamore Community Schools 5959 Hagewa Drive Blue Ash, OH 45242 | Melissa Hays, Zoning and Code Compliance Officer Karen Bouldin, Secretary |
| Jim Herman 5315 Cooper Road #J Montgomery, OH 45242 | | <u>ALL BOARD MEMBERS PRESENT</u> Richard White, Vice-Chairman Catherine Mills Reynolds Bob Saul |
| Ted Huster Project Manager GBBN Architects 332 East 8 th Street Cincinnati, OH 45202 | Eric Meade Nu Era Development, LLC 8944 Dallasburg Road Morrow, OH 45152 | Jade Stewart Steve Uckotter <u>MEMBERS NOT PRESENT</u> Mary Jo Byrnes, Chairman Tom Molloy |
| Charlie Jahnigen Vice President SHP 312 Plum Street, Suite 700 Cincinnati, OH 45202 | Steve Mombach Senior Vice President TriHealth Bethesda Hospital 625 Eden Park Drive Cincinnati, OH 45202 | |

Acting Chairman White called the meeting to order at 7:05 p.m.

Roll Call

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

PRESENT: Ms. Mills Reynolds, Mr. Uckotter, Mr. Saul, Ms. Stewart,
 Acting Chairman White (5)

ABSENT: Chairman Byrnes, Mr. Molloy (2)

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20 **Pledge of Allegiance**

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

22

23 Acting Chairman White gave a brief explanation of tonight's proceedings: He stated that tonight
24 the Board will be conducting four public hearings. A public hearing is a collection of testimony
25 from City Staff, the applicant, and anyone wishing to comment on the case. All discussions by
26 the Board of Zoning Appeals and all decisions will take place within the business session of this
27 meeting, which immediately follows the public hearing. Everyone is welcome to stay for the
28 business session of the meeting, however, the Board will not take any further public comment
29 during the portion of the meeting, unless clarification is needed by a Board member.

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

33

34 Acting Chairman White asked all guests to turn off their cell phones.

35

36 He asked that anyone planning to speak to the Board please stand to be sworn in (which includes
37 all applicants). Acting Chairman White swore in everyone planning to speak.

38

39 **Guests and Residents**

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

42

43 **Old Business (Agenda Item 1)**

44 Ms. Mills Reynolds stated that she was not present at the previous March 28, 2023 meeting, but
45 she did review the minutes, and felt that she had enough information to vote on this application.
46 She asked if there were any objections from the Board. There were none.

47

48 *A request for a variance from Nu Era Development, LLC, 8944 Dallasburg Road, Morrow,*
49 *Ohio 45152, on behalf of property owner, Italy Azouz, 10301 Peachtree Lane, Montgomery,*
50 *Ohio 45242 to allow a covered front porch to have a setback of 11 feet, where 15 feet is*
51 *required, per Schedule 151.1005 of the Montgomery Zoning Code.*

52

53 *Ms. Stewart moved to take this application off of the table.*

54

55 *Mr. Uckotter seconded the motion.*

56

57 *All members unanimously approved.*

58

59 **Staff Report**

60 The Staff Report dated March 28, 2023, "Application for Variance: Italy Azouz, 10301
61 Peachtree Lane" had been reviewed with all Board members at the last meeting and was again
62 enclosed in their packet for this meeting. Ms. Hays added that the applicant had submitted a
63 modification to the drawings, which showed a decrease in size of the covered front porch to
64 8 feet, creating a side setback of 12 feet 6 inches.

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65

66 Ms. Hays noted that she had not received any comments or questions from any neighbors
67 regarding this application.

68

69 She asked if the applicant would like to review this with the Board.

70

71 **Mr. Italy Azouz, 10301 Peachtree Lane, Montgomery, Ohio 45242** stated that they have
72 decreased the size of the porch, and hoped that this would be a good compromise, and acceptable
73 to the Board. He deferred all questions to his contractor.

74

75 **Mr. Eric Meade, Nu Era Development, LLC, 8944 Dallasburg Road, Morrow, OH 45152**
76 explained that they felt that 8 feet was minimal because once they wrap the porch columns, it
77 will actually be reduced to about 6.5 to 7 feet. He noted that the sidewalk entrance will be
78 reduced to 4 feet on the side; and with having the porch column on that corner, the sidewalk
79 entrance just in front of the front door, will be reduced to 3 feet.

80

81 Ms. Hays showed all in attendance the items Mr. Meade was referring to, on the wide screen.

82

83 Mr. White asked what material will be used for the floor of the porch. Mr. Meade stated it would
84 be concrete, with a 1 inch slope away from the house.

85

86 Ms. Stewart noted that this was 2 feet less than the original application. Mr. Meade confirmed,
87 noting that the side setback was now at 12 feet 6 inches, where 15 feet was required. Mr. Meade
88 stated the triangle encroachment was only in the front right corner, and they were requesting a 2
89 foot 6 inch variance. He stated that even if he reduced the porch to 6 feet, they would still
90 require a variance, as the side setback would then be 13 feet 8 inches.

91

92 There were no more questions from the Board.

93

94 Acting Chairman White asked if any guests or residents had comments. There were none.

95

Adjournment

97 Ms. Stewart moved to close the public hearing.

98 Mr. Saul seconded the motion.

99 The public hearing adjourned at 7:10p.m.

100

101 Acting Chairman White opened the business session at 7:10p.m.

102

Business Session

104 *A request for a variance from Nu Era Development, LLC, 8944 Dallasburg Road, Morrow,*
105 *Ohio 45152, on behalf of property owner, Italy Azouz, 10301 Peachtree Lane, Montgomery,*
106 *Ohio 45242 to allow a covered front porch to have a setback of 11 feet, where 15 feet is*
107 *required, per Schedule 151.1005 of the Montgomery Zoning Code.*

108

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109 Mr. Uckotter was not in favor of the applicant's original proposal because he did not feel like it
110 was the minimum necessary. Coming back with the 2 foot reduction, he felt a bit better about it,
111 and believed that the square footage of the encroachment was probably cut in half.

112
113 Ms. Mills-Reynolds appreciated the desire to compromise and take a little off. She felt that this
114 made a big difference from the last version, and it seemed a bit more reasonable to her.

115
116 Mr. Saul thanked the applicant for their efforts.

117
118 Ms. Stewart has observed many front porches recently, noting that there are a lot of small
119 porches, with little room to walk in the middle. She asked other Board members if they thought
120 it was the minimum necessary. Mr. Uckotter stated that it was not. She felt that we were
121 obligated to follow the guidelines set before us, and looked at Criteria #3: Is the variance
122 substantial? Is it the minimum necessary?

123
124 Mr. Uckotter did not feel this variance was as substantial as before, and was not comfortable
125 with this, but not as uncomfortable as previously.

126
127 Acting Chairman White concurred that there are other plans that could be used that would fall
128 within zoning.

129
130 Mr. Saul asked if this addressed the neighbor's concerns. Ms. Stewart stated that the neighbors
131 were not here objecting.

132
133 Ms. Mills Reynolds noted that the only piece that was out of Code was the triangle
134 encroachment. Even though the size was not the minimum necessary, that was not the issue.
135 Ms. Hays stated that the Code *does* allow for an encroachment into a front yard setback,
136 up to 10 feet, typically. To expand on the contractor's perspective, they are explaining that
137 4 feet is the minimum width necessary to be able to walk to the front door from the existing
138 sidewalk. They will have a bit less than 4 feet because the post will take up some of that space.

139
140 Mr. Uckotter stated that they could actually come way out with a rectangle into the front yard.
141 Ms. Hays confirmed that they could come 10 feet out into the front yard.

142
143 ***Mr. Uckotter moved to approve a request for a variance from Nu Era Development, LLC, 8944***
144 ***Dallasburg Road, Morrow, Ohio 45152, on behalf of property owner, Italy Azouz, 10301***
145 ***Peachtree Lane, Montgomery, Ohio 45242 to allow a covered front porch to have a setback of***
146 ***12 feet 6 inches in the side yard, where 15 feet is required, per Schedule 151.1005 of the***
147 ***Montgomery Zoning Code, as described in the City of Montgomery Staff Report, dated***
148 ***March 28, 2023, as amended.***

149
150 ***This approval is justified by criteria # 1, 4, 5, 6, 7 and 9, as outlined in Montgomery Codified***
151 ***Ordinance Chapter 150.2010 (d) for granting variances.***

152
153 ***Mr. Saul seconded the motion.***

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198

The roll was called and showed the following vote:

AYE: Ms. Stewart, Ms. Mills Reynolds, Mr. Uckotter, Mr. Saul, (5)
Acting Chairman White

NAY: (0)

ABSENT: Chairman Byrnes, Mr. Molloy (2)

ABSTAINED: (0)

This motion is approved.

Adjournment

Ms. Stewart moved to close the business session.

Mr. Uckotter seconded the motion.

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

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

Ms. Hays stated that Kevin Chesar, Montgomery's Community Development Director will present the following commercial variance requests.

New Business

Business Session (Agenda Item 2)

A request for a variance from Greg Lange, Swath Design, 30 Garfield Place, Suite 1020, Cincinnati, OH 45202, on behalf of property owner, TriHealth - Bethesda North Hospital, 10500 Montgomery Road, Montgomery, OH 45242 to allow for a series of sign area variances:

- 1) Five building entryway and one addressing sign, totaling 129 square feet, at the main hospital and emergency room entrances*
- 2) One campus identification sign of 430 square feet*

Where only a maximum of 150 square feet for all (wall/identification) signs is permitted, per Schedule 151.3013 and Schedule 151.3012 of the Montgomery Zoning Code.

Staff Report

Mr. Chesar reviewed the Staff Report dated April 25, 2023, "Application for Variance: TriHealth, 10500 Montgomery Road". He noted that he had not received any public comments regarding this application. He showed drawings on the wide screen for all to see, to provide more understanding of the Staff Report. He asked if there were any questions from the Board. There were none.

Acting Chairman White asked if the applicant wished to speak.

Steve Mombach, Senior Vice President, TriHealth - Bethesda Hospital, 625 Eden Park Drive, Cincinnati, OH 45202 noted that the key point here is that people get to the right place.

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199 Many people think that the Harold and Eugenia Thomas Center is the front door to the main
200 hospital as it is the most recent addition near the actual main entrance. He indicated that overall
201 the hospital is attempting to modernize the signage to allow for better patient and guest
202 wayfinding as well as a safety perspective when minutes count when trying to find the
203 emergency room. The overall signage plan is intended to help people understand the appropriate
204 areas to utilize at the hospital.

205

206 Acting Chairman White asked if any guests or residents had comments. There were none.

207

Adjournment

209 Ms. Stewart moved to close the public hearing.

210 Mr. Saul seconded the motion.

211 The public hearing adjourned at 7:30p.m.

212

213 Acting Chairman White opened the business session at 7:30p.m.

214

Business Session

216 *A request for a variance from Greg Lange, Swath Design, 30 Garfield Place, Suite 1020,*
217 *Cincinnati, OH 45202, on behalf of property owner, TriHealth - Bethesda North Hospital,*
218 *10500 Montgomery Road, Montgomery, OH 45242 to allow for a series of sign area variances:*

219

220 *1) Five building entryway and one addressing sign, totaling 129 square feet,*
221 *at the main hospital and emergency room entrances*

222 *2) One campus identification sign of 430 square feet*

223

224 *Where only a maximum of 150 square feet for all (wall/identification) signs is permitted,*
225 *per Schedule 151.3013 and Schedule 151.3012 of the Montgomery Zoning Code.*

226

227 Acting Chairman White asked for comments from the Board.

228

229 Ms. Mills-Reynolds was in favor of these signs.

230

231 Ms. Stewart agreed.

232

233 Mr. Saul was in favor of these signs, as was Mr. Uckotter.

234

235 Acting Chairman White was in agreement with this variance request.

236

237 Acting Chairman White stated that in order to pass this application, they would need 4 votes in
238 favor, this evening.

239

240 *Mr. Uckotter moved to approve a request for a variance from Greg Lange, Swath Design,*
241 *30 Garfield Place, Suite 1020, Cincinnati, OH 45202, on behalf of property owner, TriHealth*
242 *- Bethesda North Hospital, 10500 Montgomery Road, Montgomery, OH 45242 to allow for a*

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243 *series of sign area variances:*

244

245 1) *Five building entryway and one addressing sign, totaling 129 square feet,*
246 *at the main hospital and emergency room entrances, where 60 square feet*
247 *is permitted*

248 2) *One campus identification sign of 430 square feet, where only 120 square feet*
249 *is permitted*

250

251 *per Schedule 151.3012 and Section 151.3013(b) (4) of the Montgomery Zoning Code, as*
252 *described in the City of Montgomery Staff Report dated April 25, 2023.*

253

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

256

257 *Mr. Saul seconded the motion.*

258

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

260

261 *AYE: Mr. Saul, Ms. Stewart, Ms. Mills Reynolds, Mr. Uckotter,*
262 *Acting Chairman White*

(5)

263 *NAY:*

(0)

264 *ABSENT: Chairman Byrnes, Mr. Molloy*

(2)

265 *ABSTAINED:*

(0)

266

267 *This motion is approved.*

268

269 **Adjournment**

270 Mr. Saul moved to close the business session.

271 Mr. Uckotter seconded the motion.

272 The business session adjourned at 7:45p.m.

273

274 Acting Chairman White opened the public hearing at 7:45p.m.

275

276 **New Business (Agenda item 3)**

277 *A request for a variance from SHP, on behalf of the property owner, Sycamore Board of*
278 *Education, 7400 Cornell Road, Montgomery, OH 45242 for sign area for Sycamore High*
279 *School: 1) Two wall identification signs totaling 189.43 square feet, which is in excess of what*
280 *is permitted per Schedule 151.3011 of the Montgomery Zoning Code.*

281

282 **Staff Report**

283 Mr. Chesar reviewed the Staff Report dated April 25, 2023, "Application for Variance:

284 Sycamore Board of Education at 7400 Cornell Road."

285

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286 He showed drawings on the wide screen for all to see, to provide more understanding of the
287 Staff Report. He indicated that there had been no calls or emails received regarding this
288 application. There were no questions for Staff.

289
290 Acting Chairman White asked if the applicant wished to speak.

291
292 **Brad Lovell, Sycamore Community Schools, 5959 Hagewa Drive, Blue Ash, OH 45242**
293 thanked Staff for their help, and stated that they were happy to partner with Montgomery.
294 He explained the changes and the intention of the change, noting that the signage will help to
295 define the front of the building as well as wayfinding on the site.

296
297 There were no questions from the Board.

298
299 Acting Chairman White asked if any guests or residents had comments. There were none.

Adjournment

302 Ms. Stewart moved to close the public hearing.

303 Mr. Uckotter seconded the motion.

304 The public hearing adjourned at 8:00p.m.

305
306 Acting Chairman White opened the business session at 8:00p.m.

Business Session (3)

309 *A request for a variance from SHP, on behalf of the property owner, Sycamore Board of*
310 *Education, 7400 Cornell Road, Montgomery, OH 45242 for sign area for Sycamore High*
311 *School: 1) Two wall identification signs totaling 189.43 square feet, which is in excess of what*
312 *is permitted per Schedule 151.3011 of the Montgomery Zoning Code.*

313
314 Ms. Stewart had no comment.

315
316 Mr. Saul felt that it would be desirable to have a yield or stop sign on the road, on their private
317 road. Mr. Chesar stated that once all of the construction was done, there would be internal
318 signage that will come before the Board.

319
320 Mr. Lovell stated that because they are working forward with the natatorium, they can move in
321 quickly. Once that north loop opens, they will re-evaluate signage. He also indicated that in the
322 past finding the entrance to the school has been a challenge and with the relocation of the
323 entranceway, it is appropriate as a community institution to have proper signage for the public to
324 find the entrance.

325
326 *Mr. Uckotter made a motion to approve a request for a variance from SHP, on behalf of the*
327 *property owner, Sycamore Board of Education, 7400 Cornell Road, Montgomery, OH 45242*
328 *to allow for two wall identification signs totaling 189.43 square feet, where one sign at a*
329 *maximum of 2 square feet on the front facade is permitted, per Schedule 151.3011 of the*

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330 **Montgomery Zoning Code, as described in the City of Montgomery Staff Report dated**
331 **April 25, 2023.**

332

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

334

335 **AYE: Ms. Mills Reynolds, Mr. Uckotter, Mr. Saul, Ms. Stewart,**

336 **Acting Chairman White** (5)

337 **NAY:** (0)

338 **ABSENT: Chairman Byrnes, Mr. Molloy** (2)

339 **ABSTAINED:** (0)

340

341 **This motion is approved.**

342

Adjournment

344 Mr. Stewart moved to close the business session.

345 Mr. Uckotter seconded the motion.

346 The business session adjourned at 8:05p.m.

347

348 Chairman Byrnes opened the public hearing at 8:05p.m.

349

New Business (4)

351 **A request for a variance from SHP, on behalf of the property owner, Sycamore Board of**
352 **Education, 5757 Cooper Road, Montgomery, OH 45242 for sign area for Sycamore Junior**
353 **High School: 1) Two wall identification signs totaling 187.5 square feet; 2) One ground**
354 **mounted sign totaling 40 square feet; and 3) Four incidental signs at 12 square feet in area**
355 **and 4 feet 10 inches in height, which is excess of what is permitted per Section / Schedule**
356 **151.3011 of the Montgomery Zoning Code.**

357

Staff Report

359 Mr. Chesar reviewed the Staff Report dated April 25, 2023, "Application for Variance:
360 Sycamore Board of Education at 5757 Cooper Road".

361

362 He showed drawings on the wide screen for all to see, to provide more understanding of the
363 Staff Report. He indicated that there had been 2 calls, but neither were opposing the application.

364

365 Mr. Uckotter asked about the 4 incidental signs – if they were way-finding signs. Mr. Chesar
366 showed all the location of these signs on the drawing on the wide screen. Each sign will be 12
367 square feet. He showed members what the signs will look like and their locations at each of the
368 entrances.

369

370 There was much discussion.

371

372 Mr. Uckotter talked about the south side – he said you could barely see it, and only when you are
373 traveling east. As a member of the Board, he was not opposed to the sign, but as a tax payer, he
374 is opposed to the expense.

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375

376 Acting Chairman White asked if any guests or residents had comments.

377

378 **Jim Herman, 5315 #J Cooper Road, Montgomery, OH 45242** was here as a home owner,
379 and also as President of the Home Owners Association. All of the residents are impacted by
380 what is happening tonight. He asked about the process of notification, in particular for them.
381 Ms. Hays stated that she would recheck her lists. Mr. Herman stated that she should feel free to
382 contact him.

383

384 Mr. Herman was glad that the Junior High was there. They recognize that the lights are
385 necessary, and value the Sycamore School System.

386

387 Mr. Herman expressed his discontent with the amount of trees removed to connect into the sewer
388 and water. For those of us who looked out over a beautiful wildlife area. The school told him
389 that they would plant bushes back in there, and it has been over one year. He understood that
390 most of the signs were facing north and wouldn't impact them at all. He asked if these signs will
391 be illuminated, but how it impacts his residents today is of great concern to him. What can he do
392 so that he can get notified of what is happening to Town Properties. He asked that it be sent to
393 all.

394

395 Mr. Herman did not object to this variance as long as the signs were not illuminated.

396

397 **Mike Frazer, 5325 Cooper Road, Montgomery, OH 45242** stated that he lived in the same
398 complex as Jim Herman. To comment on signs, his input would be that if somebody else wants
399 to change the size of their sign, would the Board have to grant approval? Do they ever run into
400 that, and then he was concerned about that.

401

402 Chairman White talked to this, noting that it is called precedence. He explained the significance
403 of precedence.

404

405 Mr. Frazer stated that when the Sycamore Junior School was presenting their proposal for
406 construction, it was during COVID, and he didn't attend the meeting. Now that it is almost built,
407 he is a bit surprised. It is right in the view of his deck. There happens to be a void in the trees,
408 and now he sees the entire side of the building, and it looks horrible. It must be 60 feet tall.

409

Adjournment

411 Mr. Saul moved to close the public hearing.

412 Mr. Uckotter seconded the motion.

413 The public hearing adjourned at 8:37p.m.

414

415 Acting Chairman White opened the business session at 8:37p.m.

416

Business Session (4)

418 *A request for a variance from SHP, on behalf of the property owner, Sycamore Board of*
419 *Education, 5757 Cooper Road, Montgomery, OH 45242 for sign area for Sycamore Junior*

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420 **High School: 1) Two wall identification signs totaling 187.5 square feet; 2) One ground**
421 **mounted sign totaling 40 square feet; and 3) Four incidental signs at 12 square feet in area**
422 **and 4 feet 10 inches in height, which is excess of what is permitted per Section / Schedule**
423 **151.3011 of the Montgomery Zoning Code.**

424

425 The Board discussed the signage request, and members were in agreement.

426 Mr. Uckotter stated that he would propose two separate motions.

427

428 **Mr. Uckotter made a motion to approve a request for a variance from SHP, on behalf of the**
429 **property owner, Sycamore Board of Education, 5757 Cooper Road, Montgomery, OH 45242**
430 **to allow for one event entry wall identification sign totaling 39 square feet and one ground**
431 **mounted sign totaling 40 square feet and four incidental signs at 12 square feet and 4 feet 10**
432 **inches (in height), each, where one sign at a maximum of 2 square feet on the front facade,**
433 **and one ground sign, at a maximum of 25 square feet, is permitted, per Section 151.3011(c) of**
434 **the Montgomery Zoning Code, as described in the City of Montgomery Staff Report dated**
435 **April 25, 2023.**

436

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

439

440 **Mr. Saul seconded the motion.**

441

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

443

444 **AYE: Ms. Mills Reynolds, Mr. Uckotter, Ms. Stewart, Mr. Saul,**
445 **Acting Chairman White**

(5)

446 **NAY:**

(0)

447 **ABSENT: Chairman Byrnes, Mr. Molloy**

(2)

448 **ABSTAINED:**

(0)

449

450 **This motion is approved.**

451

452 **Mr. Uckotter made a motion to approve a request for a variance from SHP, on behalf of the**
453 **property owner, Sycamore Board of Education, 5757 Cooper Road, Montgomery, OH 45242**
454 **to allow for one Sycamore Junior High wall identification sign totaling 148.5 square feet to be**
455 **erected on the Sycamore Junior High School Campus southern / rear side, where one sign at a**
456 **maximum of 2 square feet on the front facade is permitted, per Section 151.3011(c) of the**
457 **Montgomery Zoning Code, as described in the City of Montgomery Staff Report dated**
458 **April 25, 2023.**

459

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

462

463 **Ms. Stewart seconded the motion.**

464

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

466
467 ***AYE: Ms. Stewart, Mr. Uckotter, Mr. Saul, Ms. Mills Reynolds***
468 ***Acting Chairman White*** (5)

469 ***NAY:*** (0)

470 ***ABSENT: Chairman Byrnes, Mr. Molloy*** (2)

471 ***ABSTAINED:*** (0)

472

473 ***This motion is approved.***

474

475 **Adjournment**

476 Mr. Saul moved to close the business session.

477 Mr. Uckotter seconded the motion.

478 The business session adjourned at 8:47p.m.

479

480 Acting Chairman White opened the public hearing at 8:47p.m.

481

482 **Council Report**

483 There was no other business to report.

484

485 **Minutes**

486 Ms. Stewart moved to approve the minutes of March 28, 2023, as written.

487 Mr. Uckotter seconded the motion.

488 The Board unanimously approved the minutes.

489

490 **Adjournment**

491 Ms. Stewart moved to adjourn. Mr. Uckotter seconded the motion.

492 The meeting adjourned at 8:48p.m.

493

494

495

496

497

498

499 _____
Karen Bouldin, Clerk Date

_____ Date
Richard White, Acting Chairman

500

501 /ksb

502