

VILLAGE OF YELLOW SPRINGS  
BOARD OF ZONING APPEALS  
MEETING AGENDA

The Village of Yellow Springs Board of Zoning Appeals will convene virtually on  
Wednesday, February 16, 2022 at 6:00 PM.

We will broadcast the public hearing “live” via our Community Access cable station, which is  
simultaneously shown on the Village’s “Community Access Yellow Springs” YouTube  
station. To join live to make a statement during the public hearing, contact the Council Clerk at:  
[clerk@yso.com](mailto:clerk@yso.com), or at 937-767-9126.

You may also express your views in writing by providing a copy to the Clerk of Council for  
inclusion in the record of the hearing. Please submit your letter by no later than **Thursday,  
February 10, 2022 for inclusion in the BZA packet; however, all letters received any time  
prior to the hearing will be provided to Board of Zoning Appeals members and the Zoning  
Administrator.** The application, as prepared by the petitioner, may be examined at the office of  
the Zoning Administrator on the 2<sup>nd</sup> floor of the Bryan Community Center, 100 Dayton Street,  
Yellow Springs, Ohio 45387 at any time during regular office hours or on the Village website at  
[www.yso.com](http://www.yso.com) after **Friday, February 11, 2022.** Questions regarding the application, zoning  
code or procedures may be directed to the Zoning Administrator Denise Swinger, phone (937)  
767-1702 or by email to [dswinger@vil.yellowsprings.oh.us](mailto:dswinger@vil.yellowsprings.oh.us).

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6:00 CALL TO ORDER

ROLL CALL

REVIEW OF AGENDA

COMMUNICATIONS

Matt Raska re: Apology

REVIEW OF MINUTES

Review of Minutes for November 17, 2022.

PUBLIC HEARINGS

**Variance Application** – R-B, Moderate Density Residential District – 200 West South  
College Street – Nadia Malarkey on behalf of property owners Susan Stiles and Alan  
Raney, has submitted an application for a variance seeking relief from the required fence  
height – 1260.01 (a) (1) General Provisions. **Greene County Parcel ID  
#F19000100080023900**

AGENDA PLANNING

ADJOURNMENT

**VILLAGE OF YELLOW SPRINGS  
BOARD OF ZONING APPEALS  
MINUTES**

**Virtual Meeting @ 6:00 P.M.**

**Wednesday, November 17, 2021**

**CALL TO ORDER**

The meeting was called to order at 6:00 p.m. by Ellis Jacobs, Acting Chair.

**ROLL CALL**

Ellis Jacobs, Chair, members Anthony Salmonson and Scott Osterholm were present. Zoning Administrator for the Village, Denise Swinger, was present. Solicitor Breanne Parcels was also present.

**REVIEW OF MINUTES**

Minutes for BZA Meeting of August 11, 2021 were reviewed. Salmonson MOVED and Osterholm SECONDED a MOTION TO ADOPT THE MINUTES AS WRITTEN. The MOTION PASSED 4-0 on a voice vote.

**COMMUNICATIONS**

The Clerk will receive and file:

Stephen and Vivian Markley re: 506 South High Variance  
Wayne Gulden/Bette Kelley re: Sign Variance on Corry Street

**REVIEW OF AGENDA**

There were no changes made.

**PUBLIC HEARINGS**

- 1) **Variance Application** – B-1, Central Business District – 225 Corry Street – Max Crome of Crome Yellow Springs, on behalf of the property owner Iron Table Holdings LLC, has submitted an application for a variance seeking relief from the required rear yard setback - Chapter 1250 Business Districts, and a variance seeking relief from the number, size and height requirements for certain signs on the property –Chapter 1266 – Signs – Table 1266.03 (a) Permitted Signs. **Greene County Parcel ID #F19000100100020400**

Swinger introduced the request(s) as follows:

Max Crome on behalf of Iron Table Holdings has submitted a BZA variance application for 225 Corry Street. Planning Commission approved a conditional use on September 14, 2021 for a restaurant serving alcohol, entertainment space, and outdoor patio seating with the condition that the applicant seek a variance from the BZA for relief from the five-foot rear yard setback requirement for their outdoor patio and for identified signs that exceed the size and/or height, the number per street frontage and total number of signs. Max Crome has submitted a narrative to his application explaining the requested variances.

The outdoor patio variance is for a zero lot line, and the applicant is seeking relief from the required five-foot rear yard setback. Only the rear yard has this five-foot setback requirement in the B-1 District. The front and side yard setbacks are zero in B-1 (see table below).

This is the same request the BZA allowed for the Yellow Springs Brewery at Millworks and the Lumber Company Market/Eatery at 108 Cliff Street. All three establishments are located along the Little Miami Scenic Trail.

Swinger described the sign variances: in any B or I district, a maximum of three types of permitted signs and four total permitted signs per principal building shall be allowed. In the case of a multi-tenant building where the maximum number of permitted signs has been reached, one additional sign per tenant shall be permitted. The Zoning Administrator may exempt the maximum requirement if a site visit determines the location of the signs will not be visible from the street or public property.

In this case, Swinger said, the allowance is five signs of three different types because there will be two tenants at this location. The site plan shows signs #2, #3, #6, #7, and #10, exempt from the sign code. The remaining signs #1, #4, #5, #8 and #9 are regulated by the sign code. Variances are requested for the following:

Signs #1, #4 and #5 are along the front of the property at Corry Street. The code allows one per street frontage and the applicant is requesting a variance to allow two additional.

Sign #9 exceeds the size limit of 25 sq. ft. by 4.7 sq. ft. and the applicant is requesting a variance to allow a size of 29.7 sq. ft. This sign is located along the bike path and meets the requirement of 5% of allowed wall area.

Sign #1 is the marquee – See requirements below:

Marquee sign

Number	One per business
Size	48 square feet maximum
Location	Projecting out from building wall not more than six feet
Height	A clearance of at least eight feet is required between the sidewalk and the bottom of the sign
Other	Flashing lights are not permitted

The marquee projects out from the building 5’ - 9” and the clearance between the sidewalk and the bottom of the sign is 12-feet, in compliance with the zoning code.

There is a logo sign that is part of the marquee making it a single sign. A variance is required for the overall size of the marquee and height, which extends above the roofline, but is not a roof sign. The size of the marquee will allow for text large enough to be “legible from a reasonable distance.” The marquee with logo measures 134.6 sq. ft. at the street frontage and 106.8 sq. ft. at the side. The actual signage on the marquee measures 48 sq. ft. at the front and 20 sq. ft. on the side. The applicant did a mockup of the size of the marquee with the logo in order to show its impact in relationship to the rest of the building. This is a unique use as a performance venue and Crome indicated the vertical element to this marquee is a common design for theatre marquees. It is staff’s opinion that the mockup, built to scale, is not extensive in proportion to the overall size of the building.

Max Crome displayed some of the renderings that were shown to Planning Commission to clarify what the various signs will look like in “real life”. He noted the need for the signage to be seen from the intersection of US 68 and Corry.

The Clerk received clarification that an internally lighted sign is permissible in the B-1, and that the variance is for size only.

Crome provided a Google street view of the sign area to indicate the angle at which the residents of the only dwelling in the area will see the sign.

Raska asked whose jurisdiction the issue of light pollution falls under, and was told Planning Commission, and that that PC had addressed this issue when they heard the conditional use application for the Comedy Club.

Crome described the types of lighting, stating that exterior lights will adhere to a 90 degree cutoff.

Jacobs OPENED THE PUBLIC HEARING.

Bette Kelley stated that she views the Marquee sign as being four signs, and complained again about the potential light intrusion into her home. She asked that the variance not be granted.

Wayne Gulden objected to the variance, and speculated that it would “set precedent.”

Parcels reiterated that lighting is not part of the BZA consideration, only the signage.

Crome described the types of lighting and when the lights would be on or dimmed.

Parcels stated that every BZA hearing is conducted on the merits of the case, and no case sets precedent for another. She stated again that BZA’s considerations are limited to the variances being sought; setback, and size and number of signs.

Jacobs asked Gulden and Kelley about a reference in their letter regarding “Mr. Crome’s verbal representations to us”.

Gulden stated that the mock-up provided seemed much smaller than what is being requested.

Crome stated that the mock-up was to scale and was the size being requested.

Jacobs raised a situation heard by BZA in the past in which conditions were incorporated into the variance because of complaints raised by a neighbor.

Parcels stated that the issue at hand is to grant or not grant a variance, and that conditions cannot be imposed by the BZA.

Jacobs asked whether the variance request could be changed to accommodate the neighbor concerns.

Jacobs stated that he cannot separate the number and size of the signs from the lighting issue.

The Clerk noted that the zoning area in question is the B-1.

Raska asked whether Gulden and Kelley feel any differently about the variance after hearing Crome speak.

They indicated that they did not.

Jacobs asked whether Crome could make any further assurances.

Crome stressed the need for the size of the sign as it is scaled, and stated that he would be responsive to the concerns of the neighbors. He noted that the sign will be “an iconic thing seen all over the world.”

Jacobs CLOSED THE PUBLIC HEARING.

The Clerk read the Duncan Standards on the REQUEST FOR A VARIANCE TO THE REAR YARD SETBACK as follows, calling roll on each.

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; Salmonson: Y; Raska: Y; Reed: Y; Jacobs: Y.
- (2) Whether the variance is substantial; Salmonson: N; Raska: Y; Reed: N; Jacobs: N.
- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance; Salmonson: N; Raska: Y; Reed: N; Jacobs: N.
- (4) Whether the variance would adversely affect the delivery of governmental services such as water distribution, sanitary sewer collection, electric distribution, storm water collection, or refuse collection; Salmonson: N; Raska: N; Reed: N; Jacobs: N.
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction; Salmonson: Y; Raska: Y; Reed: Y; Jacobs: Y.
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; Salmonson: Y; Raska: Y; Reed: N; Jacobs: Y.
- (7) Whether the existing conditions from which a variance is being sought were self-created; Salmonson: Y; Raska: Y; Reed: Y; Jacobs: Y
- (8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Salmonson: N; Raska: N; Reed: Y; Jacobs: Y

Salmonson MOVED TO APPROVE THE VARIANCE TO THE REAR SETBACK REQUIREMENT AS REQUESTED. Reed SECONDED, and the MOTION PASSED 4-0.

The Clerk read the Duncan Standards ON A VARIANCE TO THE SIZE AND/OR HEIGHT, THE NUMBER PER STREET FRONTAGE AND TOTAL NUMBER OF SIGNS AS REQUESTED as follows, calling roll on each.

Reed asked for discussion. He noted that the sign will be located in the CBD, but stated that he is concerned about the size of the sign.

Salmonson inquired as to how much of a variance the vertical sign actually is.

Swinger stated that this is difficult to determine, since the entirety of the sign, both the horizontal marquee portion and the vertical projection, are factored together.

The Clerk asked whether Crome could provide the dimensions for just the vertical projection portion of the sign.

Crome stated that the vertical portion of the sign is four feet by eight feet, or 24 square feet. He commented that the sign is scaled with the size of the marquee, and that while it could be slightly smaller, it would lose impact if it were scaled very much smaller.

In response to a question from Reed, Parcels stated that conditions cannot be imposed upon the variance, but that the applicant can return with a modified application for consideration at a later point.

Jacobs commented that the applicant can choose to modify the request.

The extent of the variance was discussed. Swinger commented that the logo is the portion that exceeds the code.

Reed asked for negotiation in reduction of the size of the sign.

Jacobs stated that this is all possible within the context of the meeting.

Swinger commented that the sign is not out of proportion to the building in terms of scale.

Crome showed a slide of the mock up to offer perspective. He affirmed that the sign will be internally lit.

Crome offered to reduce the sign height by one foot.

Raska stated that a 4'X7' sign is not substantially different from a 4'X8' sign.

Reed MOVED TO APPROVE THE SIGN VARIANCE AS REQUESTED FOR THE NUMBER OF SIGNS PER STREET FRONTAGE AND WITH THE CONDITION THAT THE MARQUEE SIGN IS A MAXIMUM OF SEVEN FEET ABOVE THE BODY OF THE MARQUEE, AS AGREED UPON WITH THE APPLICANT. Jacobs SECONDED.

The Clerk then called the Duncan Factors as follows:

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; Salmonson: Y; Raska: Y; Reed: Y; Jacobs: Y.
- (2) Whether the variance is substantial; Salmonson: N; Raska: Y; Reed: Y; Jacobs: Y.
- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance; Salmonson: N; Raska: Y; Reed: N; Jacobs: N.
- (4) Whether the variance would adversely affect the delivery of governmental services such as water distribution, sanitary sewer collection, electric distribution, storm water collection, or refuse collection; Salmonson: N; Raska: N; Reed: N; Jacobs: N.
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction; Salmonson: Y; Raska: Y; Reed: Y; Jacobs: Y.
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; Salmonson: Y; Raska: Y; Reed: Y; Jacobs: Y.
- (7) Whether the existing conditions from which a variance is being sought were self-created; Salmonson: Y; Raska: N; Reed: Y; Jacobs: Y.
- (8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Salmonson: Y; Raska: N; Reed: Y; Jacobs: Y.

The Clerk then called the vote on the MOTION TO APPROVE. The MOTION PASSED 3-1, with Raska voting against.

- 2) **Variance Application** – R-A, Low Density Residential District – 202 Fairfield Pike – Josh Myers, property owner, has submitted an application for a variance seeking relief from the required number of bathrooms for Accessory Dwelling Units – Chapter 1262.08 (e) (1) Conditional Use – Specific Requirements. **Greene County Parcel ID #F19000100120001800**

Swinger explained the variance request as follows:

Josh Myers submitted a conditional use application to the Planning Commission for an accessory dwelling unit (ADU). The Planning Commission approved his request for an accessory dwelling unit. Later, in a resubmission of plans due to the condition of the existing garage, which had to be demolished, he showed a second half bath. Because ADU's allow for only one bathroom, Josh Myers has submitted a variance application seeking relief to the number of required bathrooms.

Mr. Myers currently lives in Columbus and rents out the primary dwelling. He is building the ADU to use when he is here with his family, and specifically wants to have outdoor access to the half bath for his family's use. The original square footage of the ADU approved by the Planning Commission has not changed.

Myers explained the additional bathroom as an outdoor-facing room which could be used by his family when outdoors.

Swinger described the limitations of an ADU in terms of size and accessories.

Jacobs OPENED THE PUBLIC HEARING.

Swinger described a neighbor who had called with questions, which she had addressed at the time, to the satisfaction of the caller.

There being no comment, Jacobs CLOSED THE PUBLIC HEARING.

The Clerk read the Duncan Standards as follows, calling roll on each.

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; Salmonson: Y; Raska: Y; Reed: Y; Jacobs: Y.
- (2) Whether the variance is substantial; Salmonson: N; Raska: N; Reed: N; Jacobs: N.
- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance; Salmonson: N; Raska: N; Reed: N; Jacobs: N.
- (4) Whether the variance would adversely affect the delivery of governmental services such as water distribution, sanitary sewer collection, electric distribution, storm water collection, or refuse collection; Salmonson: N; Raska: N; Reed: N; Jacobs: N.
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction; Salmonson: Y; Raska: Y; Reed: Y; Jacobs: Y.
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; Salmonson: Y; Raska: Y; Reed: Y; Jacobs: Y.
- (7) Whether the existing conditions from which a variance is being sought were self-created; Salmonson: Y; Raska: Y; Reed: Y; Jacobs: Y.
- (8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Salmonson: Y; Raska: Y; Reed: Y; Jacobs: Y.

Salmonson MOVED TO APPROVE THE VARIANCE AS REQUESTED. Raska SECONDED, and the MOTION PASSED 4-0 ON A ROLL CALL VOTE.

- 3) **Variance Application** – R-B, Moderate Density Residential District – 506 S. High Street – Mark Massie of Massie Signs & Art on behalf of the Edward Jones Company, has submitted an application for a variance seeking relief from the required front yard setback for signs – Chapter 1266 Signs – Table 1266.03 (a) Permitted Signs. **Greene County Parcel ID #F19000100040007100**

Swinger explained the requested variance, explaining that Coactive Yellow Springs is a building owned by Mark Obstalecki that provides small businesses a location to rent out space with common shared areas for tenants. The Edward Jones Company, a lessee, is requesting a sign at the front of the property. The property has two lots with a building setback that is non-conforming with the zoning code. Setbacks in R-B are a minimum of 20-feet. This building is setback 2 to 3-feet from the property line and 7-8 feet from the edge of the sidewalk.

Mark Massie, representing Edward Jones, described the sign, which will be a total of five feet tall.

Swinger noted that the sign meets all code conditions, but requires a variance to the setback requirement, since the building is within that setback.

Jacobs OPENED THE PUBLIC HEARING. He noted a letter received in support of the variance. There being no comment, Jacobs CLOSED THE PUBLIC HEARING.

The Clerk read the Duncan Standards as follows, calling roll on each.

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; Salmonson: Y; Raska: Y; Reed: Y; Jacobs: Y.
- (2) Whether the variance is substantial; Salmonson: Y; Raska: N; Reed: N; Jacobs: N.
- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance; Salmonson: N; Raska: N; Reed: N; Jacobs: N.
- (4) Whether the variance would adversely affect the delivery of governmental services such as water distribution, sanitary sewer collection, electric distribution, storm water collection, or refuse collection; Salmonson: N; Raska: N; Reed: N; Jacobs: N.
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction; Salmonson: Y; Raska: Y; Reed: Y; Jacobs: Y.
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; Salmonson: Y; Raska: Y; Reed: Y; Jacobs: Y.
- (7) Whether the existing conditions from which a variance is being sought were self-created; Salmonson: Y; Raska: Y; Reed: Y; Jacobs: Y.
- (8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Salmonson: Y; Raska: Y; Reed: Y; Jacobs: Y.

Raska MOVED TO APPROVE THE SETBACK VARIANCE AS REQUESTED. Jacobs SECONDED, and the MOTION PASSED 4-0 ON A ROLL CALL VOTE.

#### **AGENDA PLANNING**

There were no future agenda items.

#### **ADJOURNMENT**

There being no further business, Raska MOVED and Salmonson SECONDED a MOTION to adjourn. The MOTION PASSED 4-0. Meeting ADJOURNED at 7:40 PM.

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Ellis Jacobs, Chair

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Attest: Judy Kintner, Clerk



**TO:** Board of Zoning Appeals  
**FROM:** Denise Swinger, Zoning Administrator  
**MEETING DATE:** Wednesday, February 16, 2022  
**RE:** BZA22-01

### **VARIANCE REQUEST**

**Variance Application** – R-B, Moderate Density Residential District – 200 West South College Street – Nadia Malarkey on behalf of property owners Susan Stiles and Alan Raney, has submitted an application for a variance seeking relief from the required fence height – 1260.01 (a) (1) General Provisions.

**Greene County Parcel ID #F19000100080023900**

**NOTIFICATION OF PUBLIC HEARING** – A public hearing notification was provided in accordance with the Village’s zoning regulations including publication in the Yellow Springs News, mailed notice to abutting and adjacent neighbors of the property, and the posting of a sign on the property noticing the public hearing.

### **Background**

Nadia Malarkey, on behalf of property owners Susan Stiles and Alan Raney, has submitted a variance application seeking relief from the fence height requirement (**Exhibit A**). The property owner trains dogs and needs a higher fence of 4 ½ to 5 feet. Their request is for a one to two foot height variance depending on its location. Within rear and side yards, the zoning code allows a height of six feet. Front yards allow a height of four feet, except within the clear vision triangle where the height maximum is three feet. This property has two front yards. The zoning code regarding the height of fences states the following:

### **1260.01 BUILDINGS AND STRUCTURES.**

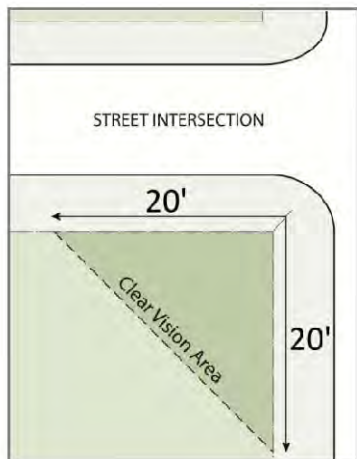
(a) Fences and Walls. Notwithstanding other provisions of this zoning code, fences, walls and foliage are permitted in required yards under the following conditions:

- (1) The height shall not exceed four feet in the front yard, including both front yards of a corner or through lot, except within the clear vision triangle (see Section [1260.02\(b\)](#)) which shall be three feet.
- (2) Fences, walls and foliage adjacent to any public sidewalk shall be set back at least one foot from the inside of the sidewalk.
- (3) Visibility into and out of any driveway or street shall remain unobstructed.
- (4) Within a side or rear yard in a Residential District, no fence or wall shall be permitted to exceed a height of six feet, measured from the natural grade to the uppermost portion of the fence.

### **1260.02 DIMENSIONAL PROVISIONS**

(b) Clear Vision Corner. Fences, walls, structures, shrubbery or other potential obstructions to vision, except utility poles, lights and street signs, shall not be permitted to exceed a height of three feet within a triangular area formed by the intersection of the street right-of-way lines and a line connecting two points located on those intersecting right-of-way lines 20 feet from the point of intersection with the right-of-way lines.





### Staff Response to Variance Application

Attached with this report is a photo of the type of proposed fence (**Exhibit B**). **Exhibit C** shows photos from the corner of W. South College and S. High Street. Located at this corner is a concrete pillar that measures approximately 5½ feet in height. It was used as a decorative feature on the property from the time it operated as the Carr Nursery. Along the West South College Street side, there is a row of yew hedges.



200 West South College Street

### VARIANCE CRITERIA

#### 1278.04 Variances

The Board's power to grant variances from the dimensional provisions of the zoning code, including by way of example, lot size, width, setbacks, parking requirements and height, shall be in harmony with the intent and purposes of the code, as provided below.

**(a) Variance Standards.** Variances from the terms of the code shall be granted only where the applicant shows that the strict application of a zoning requirement causes practical difficulties in the use of the property. The factors to be considered and weighed by the Board in determining whether a property owner has encountered practical difficulties in the use of the property include, but are not limited to:

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- (2) Whether the variance is substantial;
- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- (4) Whether the variance would adversely affect the delivery of governmental services such as water distribution, sanitary sewer collection, electric distribution, storm water collection, or refuse collection;
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
- (7) Whether the existing conditions from which a variance is being sought were self-created; and
- (8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

**(b)** The Board shall determine, after weighing the factors described above and any other factors the Board deems relevant, whether the property owner has shown practical difficulties so inequitable as to justify granting a variance to the property owner.

#### **RECOMMENDATION**

A fence cannot be located outside of the property line. If the property line abuts the public sidewalk, the fence must be set back at least one foot. Given that the fence is not a privacy fence and the existing pillar and yew hedges will remain, staff does not have an issue with this variance. We have contacted the Chief of Police and Street Foreman and should have their response prior to the meeting.

If you have any questions, please feel free to call me at 767-1702 or email [dswinger@vil.yellowsprings.oh.us](mailto:dswinger@vil.yellowsprings.oh.us).

Respectfully submitted,

Denise Swinger  
Zoning Administrator



Board of Zoning Appeals  
Public Hearing Request:  
Variance

Planning & Zoning Department  
100 Dayton St, 2nd Floor  
Yellow Springs, OH 45387  
Office: (937) 767-1702  
Fax: (937) 767-3720

Case #: \_\_\_\_\_  
Hearing Date: \_\_\_\_\_

Applicant Information

Property Address: 200 WEST SOUTH COLLEGE ST  
Property Owner: SUSAN STILES & ALAN RANEY Phone: \_\_\_\_\_ Email: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Applicant Name: Nadia Malarkey Phone: 937-2895765 Email: nadiamalarkey@gmail.com  
Applicant Address: 408 W Whitman St.

Project Information

I am requesting a variance on the dimensional requirement as outlined in (cite Zoning code section): \_\_\_\_\_

Description: We are installing a 4.5' - 5' high black steel fence to contain the dogs.  
(Fortress Building Products Versai).

The north east corner in question has an existing yew hedge that was not removed as part of the rain water mitigation plan. A four way stop is in effect on that corner.

Dimensions of Project & Total measurement of Variance requested:  
Requesting a height measurement variance within the clear vision area of 1.5 - 1.75 feet.

Site Plan Attached: ☒ Stormwater Mitigation Plan Attached: ☐

I understand that approval of this application does not imply approval for any administrative review, conditional use permit, variance, or exception from any other Village regulations which are not specifically the subject of this application. I understand that I remain responsible for satisfying requirements of any easements or private restrictions or covenants affecting the property.

I understand that the Village is not responsible for inaccuracies in information I have presented, and that inaccuracies may result in the revocation of any Zoning permit as determined by the Village. I further certify that I am an owner, or lessee, or agent fully authorized by the owner to make this application. I understand any statements made to me about the time required to process this application are general estimates and not binding. Further, I understand that it may be necessary for the Village to request additional information and clarification after I have submitted this application and accompanying documentation.

I understand this application is a public record and the property will be posted with signage by Village staff prior to any public hearings and that I am responsible for the cost of repair or replacement if such signage is damaged or removed by non-Village personnel.

I hereby certify under penalty of perjury that I am the applicant and the information and statements I have given on this application, drawings, and specifications are, to the best of my knowledge, true and correct.

Applicant Signature: Nadia Malarkey Date: JAN 24 2022

FOR OFFICE USE ONLY		
Zoning Fee: \$ _____	Payment Type: <input type="checkbox"/> Check   <input type="checkbox"/> Cash   <input type="checkbox"/> Card	Approved <input type="checkbox"/>   Denied <input type="checkbox"/>
Other fees: \$ _____	Zoning District: _____	Permit Number: _____
Total \$ _____	Zoning Official Name and Title _____	Date _____

EXHIBIT A





**EXHIBIT B**

# EXHIBIT C



# EXHIBIT C



# EXHIBIT C



# EXHIBIT C





Fellow BZA Members,

I apologize for my conduct in BZA on November 17th. I would *specifically* like to apologize to Ellis Jacobs. Had I communicated more calmly and knew the rules of our meeting better, I could have been more effective. I was extremely rude and my behavior was uncalled for.

It is my philosophy that while the Planning Commission deals with the concerns of the village, the Board of Zoning Appeals deals with the concerns of its neighborhoods.

Until now, all our cases have been inconsequential (insofar as they have been objected to) in their externalities. This last meeting for example:

- Five more feet of porch on the backside of the comedy club will not make a difference in the light pollution into the Glen.
- The bio-break half bathroom at Fairfield pike is clearly helpful.
- A small, unlit sign a few feet farther forward (not blocking the sidewalk) is clearly fine. A neighbor even wrote a letter of *approval*.

People *ought* to be able to do as they wish with their property. However, the light pollution of the new club's signage directly into Wayne and Bette's window is going to be an eternal thorn in their home after sunset. Its light will touch the entire front half of their house (in and out) forever.

Yes, they lived across from the fire station for years: Sudden lights, sirens, and traffic at all hours *in an effort to save lives*. The club will be a continued, *sustained* presence in their lives.

Yes, they live in the business. district. But when they bought their house in 1992, it *was a very different business district*. We were not a "Top Ten Hippie Tourist Destination" town in 1992. We had button stores and tailors downtown--not clubs and knick-knackereries.

Yes, times are changing. They *must* change. There will always be growing pains and friction. But Wayne and Bette are the *entire neighborhood*.

Yes, Wayne and Bette are going to have to adapt. "Adapt or die" is a rule, not a suggestion. But this *one thing* that they asked for would not have affected the club's bottom line. But it *will* affect *their* lives forever. We could have given them a little more comfort and satisfaction.

We sided with Goliath rather than David. We didn't consider Wayne and Bette as we should have. Our duty is to the people of Yellow Springs, not its businesses nor to its elites.

I know that Ayn Rand is not popular around town, nor a figure typically associated with arguments for government intervention. But she provided a quote that often comes to me.

"The smallest minority on earth is the individual. Those who deny individual rights, cannot claim to be defenders of minorities."

Thank-you,  
Matthew Raska