

VILLAGE OF YELLOW SPRINGS
BOARD OF ZONING APPEALS
AGENDA

The Village of Yellow Springs Board of Zoning Appeals will convene on Wednesday,
November 5, 2014 at 7:00 PM in Council Chambers, Second Floor, John Bryan
Community Center, 100 Dayton Street, Yellow Springs, Ohio 45387

7:00 CALL TO ORDER

ROLL CALL

REVIEW OF AGENDA

COMMUNICATIONS

7:05 REVIEW OF MINUTES
Minutes for BZA Meeting of August 20, 2014

7:10 PUBLIC HEARINGS

1) **131 West Center College Street** (R-B, Moderate Density Residential District)
– Owners Trent and Mary Fisher request a variance to the Yellow Springs Zoning Code Section 1248.03a (Table) to allow a reduced side-yard setback; for construction of an addition to the rear of the principal structure.

2) **128 West North College Street** (R-B, Moderate Density Residential District)
– Owners Nancy and Malcolm Kelley request a variance to Yellow Springs Zoning Code Section 1282.04 to allow an existing nonconforming structure that is currently located approximately fifteen (15) within the required minimum twenty (20) feet front-yard setback to extend an additional twenty-six (26) inches into the established front-yard setback; for the construction of a front door awning.

3) **802 South High Street** (R-B, Moderate Density Residential District) – Owner, Kathleen Johnston requests variances to the Yellow Springs Zoning Code Section 1248.03a (Table) to allow reduced side-yard setbacks; to remove and rebuild a larger garage.

8:45 AGENDA PLANNING

9:00 ADJOURNMENT

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

IN COUNCIL CHAMBERS @ 7:00 P.M.

Wednesday, August 20, 2014

CALL TO ORDER

The meeting was called to order at 7:04 p.m. by Ellis Jacobs, Acting Chair.

ROLL CALL

Ellis Jacobs, Kingsley Perry, Steven Conn (arrived at 7:10pm) and Dan Reyes were present, as was the Zoning Administrator for the Village, Tamara Ennist.

REVIEW OF AGENDA

Jacobs suggested waiting for Conn's arrival so that there would be a quorum for the review of Minutes, so began with the application for a Variance.

PUBLIC HEARINGS

108 S. Walnut Street. Ennist reviewed the request as follows:

ZONING DISTRICT: R-C, High Density Residential District

APPLICANT: Robert Swaney, Owner

PROPERTY OWNER: Robert & Susan Swaney

REQUESTED ACTION: Request for a variance to the Village of Yellow Springs Zoning Code Section 1282.04(a)(1) (Nonconforming Building and Structures) in order to allow a reduction to the established rear-yard setback distance for the construction of an enclosed patio.

HEARING NOTICE: "108 S. Walnut Street (R-C, High Density Residential District) – Owner, Robert & Susan Swaney request a variance to Yellow Springs Zoning Code Section 1282.04(a)(1) to allow an existing nonconforming structure that is currently located four and a half (4½) within the required minimum fifteen (15) feet rear-yard to extend an additional one (1) foot into the established ten and a half (10.5) feet rear-yard setback; for construction of a covered enclosed rear patio. Greene County Parcel ID #F19000100100007400. Applicable Yellow Springs Zoning Code sections are 1248.03a (Table), 1278.04 Variances, 1282.04(a)(1) (Nonconforming Structures), 1284.06 (Nonconforming building or structure), 1284.06 (nonconforming lot), 1284.08 (Setback), 1284.10 (Variance), 1284.11 (Yard), 1284.11 (Yard, required)."

GREENE COUNTY PARCEL ID: # F19000100100007400.

STAFF ANALYSIS OF THE APPLICATION: The applicant is requesting relief from the strict requirements of the zoning code regulations as they apply to yard setback requirements for nonconforming structures within the R-C, High Density Residential District. The application request is to reduce the rear yard setback requirement from the established ten and a half (10.5) feet to nine and a half (9.5) feet.

Property Information and analysis:

The property is lot #39 of the Yellow Springs subdivision. It is located on the west side of S. Walnut Street being the second property south of Dayton Street. The irregular shaped lot contains 4,108 square

feet (0.0943 ac.), approximately a tenth of an acre, and has sixty-nine (69) feet of street frontage and a lot depth that varies from forty-three (43) to seventy-four (74) feet.

The existing one and a half-story residential structure covers approximately 1,534 square feet of the lot with a decorative refurbished outhouse covering another approximately twenty-five (25) square feet of the site for a total of 1559 square feet of lot coverage equaling just under 40% of lot coverage. According to the site plan, the closest point of building to the rear yard measures ten and a half (10.5) feet.

Variance Criteria

Chapter 1248 of the Yellow Springs Zoning Ordinance identifies the zoning regulations for Residential Districts. The R-C, High Density Residential District requires a minimum lot area of 4,800 square feet, a minimum lot frontage of forty (40) feet and allows for a maximum 50% lot coverage. The minimum yard setback requirements are twenty (20) feet for the front yard, five (5) feet for side yards and fifteen (15) feet for the rear yard. Because the structure, which was built in 1900, does not meet the minimum setback requirements of the current zoning code, the structure is identified as a nonconforming structure (ZC Sec. 1282.01). Nonconforming structures cannot be enlarged or altered to increase the nonconformity except in cases in which the setback of the structure is nonconforming by 50% or less of the distance required by this code [ZC Sec. 1282.04(a)(1)]. In this case, the nonconforming setback may be extended along the same plane as the existing nonconforming setback [ZC Sec. 1282.04(a)(1)].

The applicant would like to enclose an existing patio and in doing so the overhang will extend an additional one foot into the established ten and a half (10.5) feet rear setback distance. He is asking for a variance to Zoning Code Section 1282.04(a)(1) for this purpose.

STAFF RECOMMENDATION: Staff recommends that the Board of Zoning Appeals review the application and carefully consider the variance request.

Jacobs OPENED THE PUBLIC HEARING.

Robert Swaney stated that he is requesting the one foot variance because the house and garage are set at angles such that if he were to fit the patio into the smaller area, it would create issues with the post and foundation.

In answer to questions from Conn, Swaney stated that the brickwork is currently in place for the patio, and his desire is to enclose that existing area. Swaney described an existing stone wall of about 18" in height which currently enclosed the brickwork. Both Conn and Swaney noted the number of roofs and angles on the existing structure.

Reyes asked for clarification regarding the site plan, and Swaney noted that the GIS map is not accurate, and that the lines for the house and yard are not squared up precisely, and that the neighboring property encroaches and the house itself encroaches into the public ROW and the alley.

Swaney gave some history of the home, noting that it was built prior to any zoning code, which explains the many anomalies.

There were no further questions or comments from the audience.

Jacobs CLOSED THE PUBLIC HEARING.

Conn MOVED to APPROVE THE VARIANCE AS REQUESTED. Perry SECONDED.

Jacobs then read each variance criterion from Chapter 1278.04 of the Zoning Code and called a vote on each, as follows:

- (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; Conn: Y; Jacobs: Y; Perry: Y; Reyes: Y
 - (2) Whether the variance is substantial; Conn: N; Jacobs: N; Perry: N; Reyes: 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; Conn: N; Jacobs: N; Perry: N; Reyes: 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; Conn: N; Jacobs: N; Perry: N; Reyes: N
 - (5) Whether the property owner purchased the property with knowledge of the zoning restriction; Conn: Abstain; Jacobs: Y; Perry: Y; Reyes: Y
 - (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; Conn: N; Jacobs: N; Perry: N; Reyes: Y
 - (7) Whether the existing conditions from which a variance is being sought were self-created; Conn: N; Jacobs: N; Perry: N; Reyes: N
 - (8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Conn: Y; Jacobs: Y; Perry: Y; Reyes: Y
- (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; Conn: Y; Jacobs: Y; Perry: Y; Reyes: Y

Jacobs then CALLED THE VOTE on the MOTION TO APPROVE. The MOTION PASSED 4-0 ON A ROLL CALL VOTE.

REVIEW OF MINUTES

Minutes for BZA Meeting of May 7, 2014. Perry MOVED and Conn SECONDED a MOTION TO APPROVE THE MINUTES AS WRITTEN. The MOTION PASSED 4-0 ON A VOICE VOTE. Reyes abstained due to non-voting status at that meeting.

PUBLIC HEARINGS

Ennist read the application as follows:

LOCATION: 634 Omar Circle

ZONING DISTRICT: R-A, Low Density Residential District

APPLICANT: Alyce Earl Jenkins, Owner

PROPERTY OWNER: Alyce Earl Jenkins

REQUESTED ACTION: Request for a variance to the Village of Yellow Springs Zoning Code Section 1248.03a (Table) (Dimensional Requirements: Residential Districts) in order to allow a reduced side-yard setback distance for the construction of a one car garage on the north side of the principal residential building.

HEARING NOTICE: “**634 Omar Circle** (R-A, Low Density Residential District) – Owner, Alyce Earl Jenkins requests a variance to the Yellow Springs Zoning Code Section 1248.03a (Table) to allow a reduced side-yard setback; for construction of a one car garage addition that would extend seven (7) feet into the required minimum ten (10) feet side yard. Greene County Parcel ID; #F19000100050002500. Applicable Yellow Springs Zoning Code sections are: 1248.03a (Table), 1278.04 Variances, 1284.08 (Setback), 1284.10 (Variance), 1284.11 (Yard), 1284.11 (Yard, required).”

GREENE COUNTY PARCEL ID: # F F19000100050002500.

STAFF ANALYSIS OF THE APPLICATION: The applicant is requesting relief from the strict requirements of the zoning code regulations as they apply to yard depth within the R-A, Low Density Residential District. The application request is to reduce the side yard setback requirement from ten (10) feet to three (3) feet to allow construction of a one car garage on the north side of the existing structure.

Property Information and analysis:

The property is lot #25 of the Omar Park Estates, Section Two subdivision. It is located on the west side of the street on the west end of the Omar Circle right-of-way. The lot contains 10,625 square feet (0.244 ac), approximately a quarter of an acre, and has eighty-five (85) feet of street frontage and a lot depth of one hundred twenty-five (125) feet.

The existing one-story ranch style residential structure is fifty-six (56) feet wide and contains 1,765 square feet, covering approximately 16.6% of the lot. According to the site plan, the current location of the building provides a forty (40) feet front yard setback, a forty-seven (47) feet rear-yard setback, a fifteen (15) feet north side-yard setback and a fourteen (14) feet south side-yard setback.

The current structure does not contain a garage because previous owners converted the original garage into a family room. The current owner utilizes the family room on a daily basis and reverting it back into a garage would negatively alter the interior layout. She would like to add an attached garage in order to access her vehicle without being subjected to the elements.

Variance Criteria

Chapter 1248 of the Yellow Springs Zoning Ordinance identifies the zoning regulations for Residential Districts. The R-A, Low Density Residential District requires a minimum lot area of 7,500 square feet, a minimum lot frontage of sixty (60) feet and allows for 35% lot coverage. The minimum yard setback requirements are twenty-five (25) feet for the front and rear yards and ten (10) feet for side yards with a total side yard setback of twenty-five (25) feet.

The requested seven feet variance would reduce the north side-yard setback to three (3) feet and the total side-yard setback to seventeen (17) feet. The 324 square feet one car garage addition would increase the lot coverage from 16.6% to 19.7%.

STAFF RECOMMENDATION: Staff recommends that the Board of Zoning Appeals review the application and consider the variance request. One area of concern is that drainage be addressed so that storm water is not directed onto the neighboring property.

Jacobs received confirmation from Ennist that there are no government services located between the homes, but was told that there are above-ground power poles at the rear of the property.

Jacobs OPENED THE PUBLIC HEARING.

Richard Zopf spoke on behalf of the applicant, noting that he had advised the homeowner regarding her ability to construct a garage on the premises. He stated that the home had originally had a garage, but that a previous owner had made the original garage into a room in the house.

Zopf noted the harsh winter in 2014 and the age of the homeowner in encouraging a favorable view of the variance. He addressed the issue of storm drainage, noting that the roof and gutters are intact and drain to the storm sewers.

Alyce Jenkins spoke, noting that she had started speaking with her neighbors about the project some time ago so that their view would not be obstructed and so that access would be maintained to the rear yard electric meters.

Ms. Jenkins noted the difficulty she faces in dealing with snow and ice, and stated that having an attached garage would relieve her of a substantial burden in this regard.

Ms Jenkins noted that her home is located at the lowest spot in the neighborhood.

Cecelia Greene spoke for herself and her mother, both of them being neighbors of Ms. Jenkins. She stated that she, her mother and her brothers were all in agreement regarding their approval of Ms. Jenkins' plans. She did express concern that if the garage is built that trucks will not have direct access to the sewer cap located in the neighboring (her mother's) yard.

A discussion among the neighbors and the board ensued, with Zopf pointing out that a truck does not need access to the sewer cap, since any clearing of the line can be accomplished remotely.

Paul Abendroth asked that the Board consider the issue of fire protection.

Zopf commented that there are other parts of town with far smaller setbacks, and that setbacks were not designed to provide utility access.

In answer to a question from Reyes, Zopf stated that he had been able to establish 3 out of 4 benchmarks when he surveyed the house.

Reyes asked about other possible options to a garage such as a carport, and was informed that the homeowner wished to be able to have storage space in the garage, necessitating its enclosure.

Conn commented upon the matter, noting that the footprint for a carport is the same as that for a garage. He acknowledged that going from ten feet to three is a substantial reduction in setback, but opined that he did not see an alternative to this.

Ennist commented that there is no possibility of placing the garage at the rear of the property.

Perry MOVED TO APPROVE THE VARIANCE REQUEST AS PRESENTED. Conn SECONDED.

Jacobs then read each variance criterion from Chapter 1278.04 of the Zoning Code and called a vote on each, as follows:

(c) *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; Conn: Y; Jacobs: Y; Perry: Y; Reyes: Y
 - (2) Whether the variance is substantial; Conn: Y; Jacobs: Y; Perry: Y; Reyes: 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; Conn: N; Jacobs: N; Perry: N; Reyes: 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; Conn: N; Jacobs: N; Perry: N; Reyes: N
 - (5) Whether the property owner purchased the property with knowledge of the zoning restriction; Conn: Y; Jacobs: Y; Perry: Y; Reyes: Y
 - (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; Conn: N; Jacobs: N; Perry: N; Reyes: N
 - (7) Whether the existing conditions from which a variance is being sought were self-created; Conn: N; Jacobs: N; Perry: N; Reyes: N
 - (8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Conn: Y; Jacobs: Y; Perry: Y; Reyes: Y
- 1 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; Conn: Y; Jacobs: Y; Perry: Y; Reyes: Y

Jacobs then CALLED THE VOTE on the MOTION TO APPROVE. The MOTION PASSED 4-0 ON A ROLL CALL VOTE.

AGENDA PLANNING

There were no items for next month's meeting. The group set aside September 24th as a tentative date if items are received.

ADJOURNMENT

There being no further business, Conn MOVED and Perry SECONDED a MOTION to adjourn. The MOTION PASSED 4-0. Meeting ADJOURNED at 7:50 pm.

Ellis Jacobs, Acting Chair

Attest: Judy Kintner, Clerk

VILLAGE OF YELLOW SPRINGS
Board of Zoning Appeals
NOTICE OF PUBLIC HEARING

Notice is hereby given that:

Three owners of property in the Village have requested variances from provisions of the Village of Yellow Springs Zoning Code;

1) **131 West Center College Street** (R-B, Moderate Density Residential District) – Owners Trent and Mary Fisher request a variance to the Yellow Springs Zoning Code Section 1248.03a (Table) to allow a reduced side-yard setback; for construction of an addition to the rear of the principal structure (residential house) that would extend approximately eight (8) feet into the required minimum ten (10) feet side yard of Greene County Parcel ID; #F19000100080006300. Note: The Fisher's Property is comprised of 4 parcels all recorded on one deed, Vol. 2728 / Pg. 887. Applicable Yellow Springs Zoning Code sections are: 1248.03a (Table), 1278.04 Variances, 1284.08 (Setback), 1284.10 (Variance), 1284.11 (Yard), 1284.11 (Yard, required).

2) **128 West North College Street** (R-B, Moderate Density Residential District) – Owners Nancy and Malcolm Kelley request a variance to Yellow Springs Zoning Code Section 1282.04 to allow an existing nonconforming structure that is currently located approximately fifteen (15) within the required minimum twenty (20) feet front-yard setback to extend an additional twenty-six (26) inches into the established front-yard setback; for the construction of a front door awning. Greene County Parcel ID #F19000100080008200. Applicable Yellow Springs Zoning Code sections are 1248.03a (Table), 1278.04 Variances, 1282.04 (Nonconforming Structures), 1284.06 (Nonconforming building or structure), 1284.08 (Setback), 1284.10 (Variance), 1284.11 (Yard), 1284.11 (Yard, required).

3) **802 South High Street** (R-B, Moderate Density Residential District) – Owner, Kathleen Johnston requests variances to the Yellow Springs Zoning Code Section 1248.03a (Table) to allow reduced side-yard setbacks; to remove and rebuild a larger garage – the new garage will be no closer to the neighbors than it currently stands. The applicant is requesting a 3.5 ft. variance from the required five (5) feet minimum side yard setback to the south property line of Greene County Parcel ID; #F19000100080003700 and an 8.5 ft. variance from the required ten (10) feet minimum side yard setback to the north property line of Greene County Parcel ID; #F19000100080003700. Note: The Johnston's Property is comprised of four (4) contiguous parcels. Applicable Yellow Springs Zoning Code sections are: 1248.03a (Table), 1260.04 (Uses), 1278.04 Variances, 1284.06 (Lot), 1284.08 (Setback), 1284.10 (Variance), 1284.11 (Yard), 1284.11 (Yard, required).

A PUBLIC HEARING WILL BE HELD ON THESE PETITIONS BY THE VILLAGE OF YELLOW SPRINGS BOARD OF ZONING APPEALS:

DATE: Wednesday, November 5, 2014

TIME: 7:00 p.m.

LOCATION: Council Chambers, 2nd floor, Bryan Center, 100 Dayton Street, Yellow Springs, OH 45387

This notice provides you and every other interested party the opportunity to appear or have input at the hearing. You may come in person or have someone appear on your behalf. You may express your views in writing by providing a copy to the Clerk of Council for inclusion in the record of the hearing. The applications, as prepared by the petitioners, may be examined at the office of the Clerk of Council on the 2nd floor of the Bryan Community Center, 100 Dayton Street, Yellow Springs, Ohio 45387. Questions regarding the applications, zoning code or procedures may be directed to the Zoning Administrator at the same address, or by calling (937) 767-3703.

Tamara Ennist
Village Zoning Administrator

YS News: Publish **October 30**, 2014, Provide affidavit.

BOARD OF ZONING APPEALS

MEETING DATE: November 5, 2014

STAFF REPORT; Tamara Ennist, Village Zoning Administrator

APPLICANT: Ted Donnell

PROPERTY OWNER: Trent P. & Mary I. Fisher, Co-trustees

REQUESTED ACTION: The request is for a variance to the side yard setback requirement to allow an addition to be added to the back of the principle structure.

HEARING NOTICE: 131 West Center College Street (R-B, Moderate Density Residential District) – Owner, Trent and Mary Fisher requests a variance to the Yellow Springs Zoning Code Section 1248.03a (Table) to allow a reduced side-yard setback; for construction of an addition to the rear of the principal structure (residential house) that would extend approximately eight (8) feet into the required minimum ten (10) feet side yard of Greene County Parcel ID; #F19000100080006300. Note: The Fisher's Property is comprised of 4 parcels all recorded on one deed, Vol. 2728 / Pg. 887. Applicable Yellow Springs Zoning Code sections are: 1248.03a (Table), 1278.04 Variances, 1284.08 (Setback), 1284.10 (Variance), 1284.11 (Yard), 1284.11 (Yard, required).

LOCATION: 131 West Center College Street

GREENE COUNTY PARCEL ID#: F19000100080006300.

EXISTING ZONING: The property is located within the "R-B", Moderate Density Residential District.

STAFF ANALYSIS OF THE APPLICATION: Property Information and analysis:

The property, located at 131 West Center College Street, is part of the Yellow Springs Subdivision and consists of four parcels; the west half of lot #247, lot #250, the east half of lot #251 and a five feet wide strip off the east side of the west half of lot #251, all included on the deed recorded in volume 2728 on page 887. The combined property has a frontage width of one hundred and five (105) feet and a depth of one hundred-fifty (150) feet. The principal structure, built in 1940, appears to encumber the entire width of lot #250 and extends across both interior side lot lines onto the east half of lot #251 and the west half of lot #247. The accessory detached garage encumbers the west half of lot #247 and appears to extend across the side lot line onto lot #250. Because the structures cannot comply with the yard setbacks required by the current zoning code for each lot and since the zoning code does not make an exception for interior lot lines of properties under unified ownership, they are considered to be non-conforming structures.

The property owners are constructing an addition onto the back side of their house. The addition would be located entirely on lot #250 and while it would be setback approximately thirty-six (36) feet from the perimeter side lot line it appears that it would be approximately two feet from the interior side lot line shared with the east half of lot #251.

While this seems to be a non-issue since the setback requirement can be satisfied if viewed from the perimeter side lot line, it is a technical issue that could increase the nonconformity if one or more of the parcels were sold to neighboring property owner or split off to create a separate building lot. Because this issue is not specifically addressed by the current zoning code, the property owners have two options for addressing this issue; a replat of the four parcels into one lot or approval of a variance to the side yard setback. For this particular project the owners have decided to pursue a variance.

VARIANCE CRITERIA: Additional Information.

SECTION 1248.03 (Table) Lot and Width Requirements: Residential Districts.

Minimum Lot Area – 6,000 square feet (single-family residence) (*Current lot area is 15,750 square feet*)

Minimum Lot Width – 50 feet (*Currently the lot width is 105 feet.*)

SECTION 1248.03a (Table) Dimensional Requirements: Residential Districts.

Minimum Front Setback – 20 feet (*Current front setback is approximately 37 feet*)

Minimum Side Setback – 5 feet min. /15 feet total (*Current **proposed** side setbacks are approximately 2 feet (west interior side lot line [36 feet to the west perimeter side lot line])*)

Minimum Rear Setback – 20 feet (*Current rear setback is approximately 74 feet*)

Maximum Lot Coverage – 40% (*Current coverage is approximately (3,020 sq. ft.) 19.2%*)

SECTION 1260.02(f) Required Yards or Lots. No lot or lots in common ownership and no yard, court, parking area or other space shall be so divided, altered or reduced as to make the area or space less than the minimum size required by this code. If already less than the minimum size required, the area or space shall not be further divided or reduced.

SECTION 1282.04 Nonconforming Buildings and Structures

Where a lawful nonconforming building or structure exists at the effective date of this zoning code, or an amendment thereto, that does not comply with the requirements of this code because of restrictions such as floor area, lot coverage, width, height, or setbacks, that building or structure may continue to be occupied and used as long as it remains otherwise lawful, subject to the following provisions:

(1) No nonconforming building or structure may be enlarged or altered in a way that increases its nonconformity, except in cases in which the setback of a building or structure is nonconforming by 50 percent or less of the distance required by this code. Only in these cases may the nonconforming setback be extended along the same plane as the existing nonconforming setback, provided that in so doing, the setback itself is not further reduced.

SECTION 1284.02 Definitions: A-B

Addition. Any construction which increases the size of a building or facility in terms of site coverage, height, length, width, or gross floor area, such as a porch, attached garage or carport, or a new room or wing.

SECTION 1284.06 Definitions: L-M-N

Lot. A legally described and recorded parcel of land occupied or intended to be occupied by a principal building or group of buildings and accessory buildings, or utilized for a principal use and its accessory uses, together with such yards and open spaces as are required by this code.

Lot area. The total horizontal area within the lot lines of the lot, excluding any street right-of-way or easement dedicated for street purposes.

Lot Lines. The lines bounding a lot, as defined below:

(1) Lot line, front. In the case of an interior lot, the line separating the lot from the street right-of-way or road easement.

(2) Lot line, rear. The lot line opposite and most distant from the front lot line. On a corner lot, the rear lot line is opposite the shorter of the two front lot lines. In the case of a triangular lot, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long, lying furthest from the front lot line and wholly within the lot. A through lot has no rear lot line.

(3) Lot line, side. The lot lines connecting the front and rear lot lines of an interior or corner lot or connecting the front lot lines of a through lot.

Lot of record. A lot that is separately described within an approved subdivision or a parcel of land surveyed and legally recorded with the Village and county.

Setback. The required minimum horizontal distance between the building line and the related front, rear and side property lines.

Yard. An unoccupied open space from the ground upward, between the building wall and the adjoining lot lines.

(1) Front yard. The space extending the full width of the lot between the nearest edge of a building and the front lot line.

(2) Rear yard. The space extending the full width of the lot between the nearest edge of a building and the rear lot line.

(3) Side yard. An open space extending from the front yard to the rear yard between the nearest edge of a building and the nearest side lot line.

Yard, required. That portion of the yard lying between the lot line and the required building setback line.

SECTION 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:

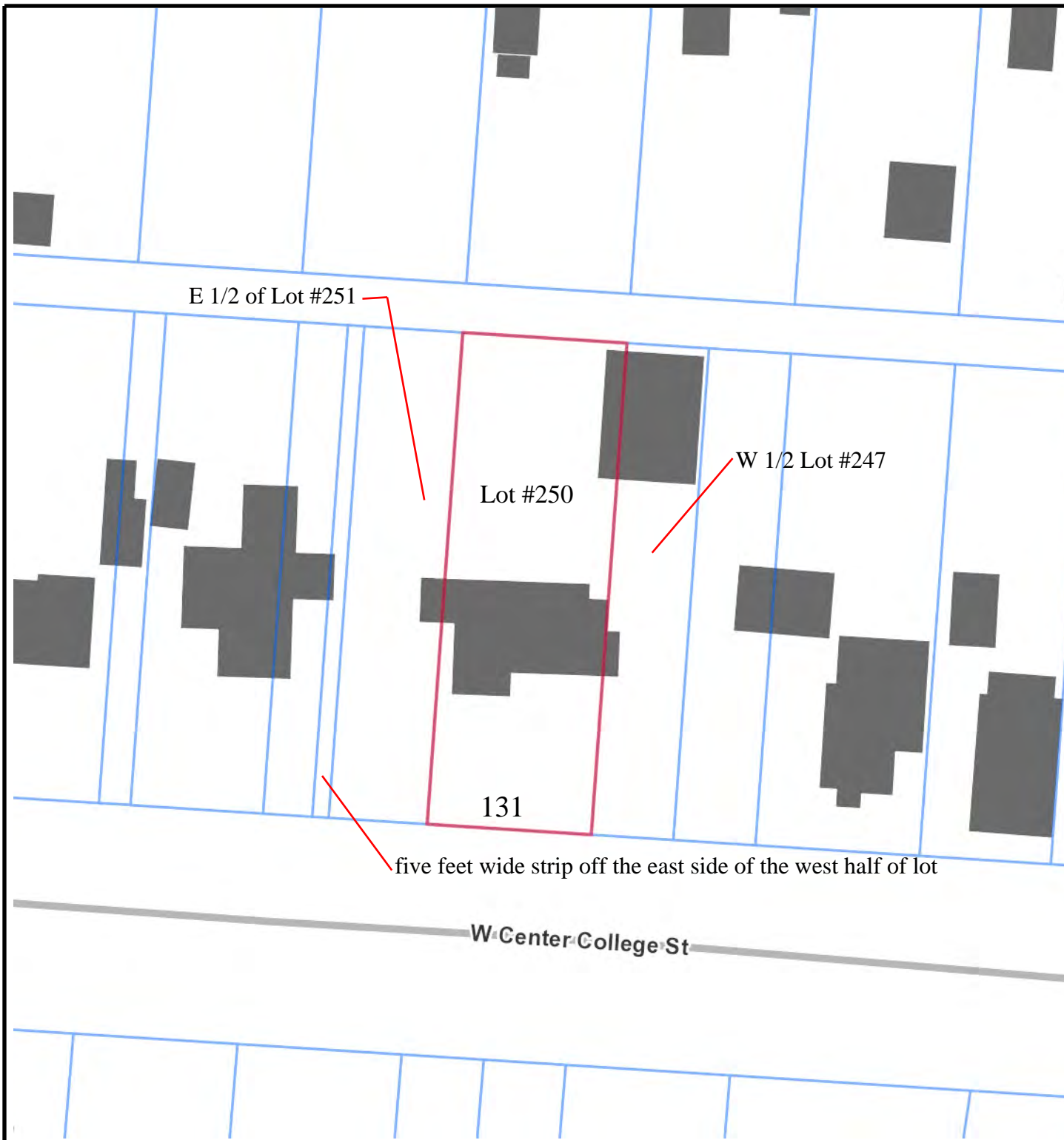
(1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

(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.

STAFF RECOMMENDATION: Staff recommends that the Board of Zoning Appeals consider this application and discuss how you all feel that interior side lot lines should be addressed.

Based on the fact that all four parcels are included in the same deed, Staff feels that an approval would not circumvent the intent of the zoning code or of the zoning district as long as the property owner understands that any transfer of any parcel to another party must provide the minimum side yard setback for the structure. Furthermore, when granting this or any variance the Board should carefully word the approval motion so that the variance is specific and identifies the actual area that the variance will apply to on the lot.



Greene County GIS

Owner Information

Owner Name **FISHER TRENT P**
 Owner Cont **& MARY I CO TRUSTEES**
 Mailing Addr **131 W CENTER COLLEGE ST**
YELLOW SPRINGS OH 45387

Property Information

Parcel ID **F19000100080006300**
 Address **131 CENTER COLLEGE**
 District **YELLOW SPRINGS VIL**
 Acres
 Description **YELLOW SPRINGS ALL**
LOT 250
131 W CENTER COLLEGE ST

Building Information

Story **1.5**
 Construction **FRAME**
 Style **CAPE COD**
 Year Built **1940**
 Sq Ft **2312**
 Total Rooms **6**
 Bedrooms **4**
 Family Room **0**
 Full Baths **2**
 Half Bath **0**
 Basement **FULL**
 Fire Place **1**
 Grade **C+**
 Mkt Adj
 Land Use **510**
 Heat Fuel **GAS**
 Heating **CENTRAL AIR CONDITION**

Values

	Appraised	Assessed
Land	\$47,180.00	\$16,510.00
Building	\$155,350.00	\$54,370.00
Total	\$202,530.00	\$70,880.00

Taxes

	Delinquent	1st Half	2nd Half
Real	\$0.00	\$2,259.65	\$2,372.63
Special	\$0.00	\$0.00	\$0.00
Total	\$0.00	\$2,259.65	\$2,372.63
		Total Taxes Due	\$4,745.27
			\$0.00

Sales

	Price
Date	\$176,000.00
	05/04/98

The information contained on this cadastral map is used to locate, identify and inventory parcels of land in Greene County for appraisal and taxing purposes only and is NOT to be construed or used as a legal description. Map information is believed to be accurate but accuracy is not guaranteed. Any errors or omissions should be reported to the Greene County Auditor's Office. In no event will Greene County be liable for any damages, including loss of data, lost profits, business interruption, loss of business information, or other pecuniary loss that might arise from the use of this map or the information it contains.

1 inch = 29 Feet



F19000100080006300 03/10/2012



Village of Yellow Springs

BOARD OF ZONING APPEALS APPLICATION FOR VARIANCE

Name of Applicant: Ted Donnell

Phone: _____ Email: _____

Property Owner: Trent + Mary Fisher

Phone: 767-2214 Email: fishana1996@gmail.com

Address of Proposed Project: 131 W. C. College St.

Greene County Parcel I.D. #: F19-0001-0008-D-0062

Description of Proposed Project: Addition

Building Permit # 113347

Zoning Permit # 2014-60

see attached survey of 3/31/98

On 9/5/14 (date), _____

first approached my office applying for a zoning permit for the project described above. The

application for permit was denied for the following reasons: _____

Approved on 9/15 contingent upon
final approval by BZA

Fee: \$35.00 Paid on: 9/20/14 (date) Attach copy of check or receipt

Zoning Administrator: _____ Date: _____

The undersigned Purchaser hereby acknowledges receipt of Survey and accepts same as shown.

Mary I. Fisher

BUYER: Mary I. Fisher

SELLER: William B. & Betty Dawson

STREET ADDRESS: 131 W. Center College St.
CITY OR VILLAGE: Yellow Springs

TOWNSHIP:

COUNTY: Greene

STATE: Ohio

CITY LOT NUMBER: 247 (W. $\frac{1}{2}$) 250 (ALL) 251 (E. 30')

PLAT NAME:

PLAT LOT NUMBER:

PLAT BOOK:

PAGE:

Survey made for and at the instance of
Summit Land Title Agency, Inc.

Star Bank, N. A.

We certify that this Location Survey shows the improvement(s) as located on the premises described: that the improvement(s) are entirely within lot lines and that there are no encroachments upon the premises described, by the improvement(s) on adjoining premises, except as indicated. This Location Survey for Mortgage purposes only and not for establishing building or fencing lines.

This mortgagee's inspection was prepared for identification purposes only. No responsibility is extended herein to the land owner or occupant.

This survey prepared in accordance with Chapter 4733-38, Ohio Administrative Code, and is not a boundary Survey pursuant to chapter 4732-37, Ohio Administrative Code.

33V / male carrier

Ronald Tricarico, pg.

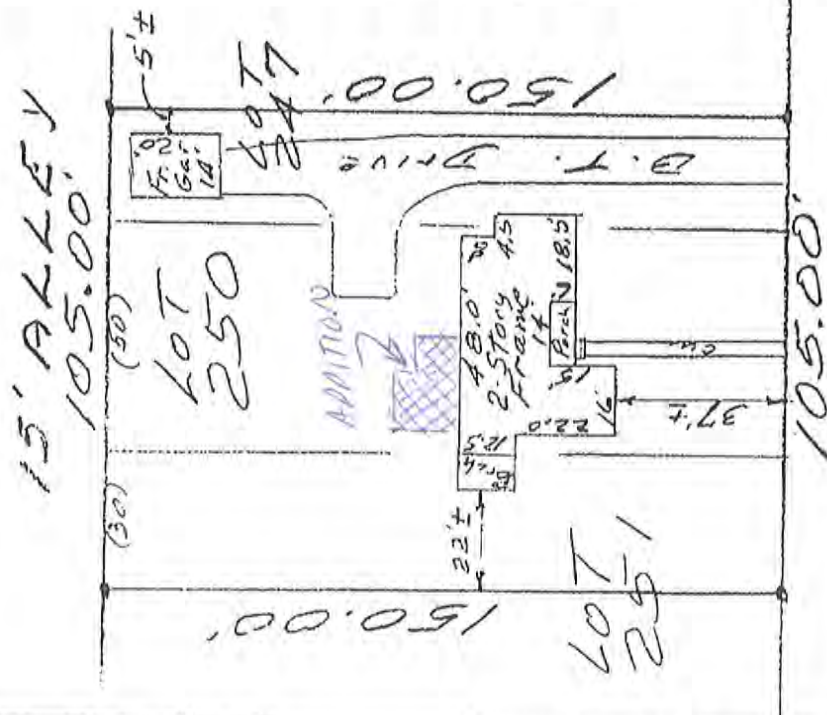
Registered Surveyor No. 6265

RONALD TRICARICO
3131 CLAYDOR DR.
DAYTON, OHIO 45431
426-1015

SCALE 1" = 40'	DRAWN R.T.	CHECKED 120
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JOB NO.

3-31-98 98-3-17



W. CENTER COLLEGE ST. (70' Plw)

6038014

DAYTON FILM CO.

ZONING/UTILITY TAP PERMIT
Village of Yellow Springs, Ohio

As required by Section 1240 of the Village Zoning Code: A zoning permit shall be required and obtained prior to any change of use of structure or of land. The following information is necessary to initiate the acquiring of such permit.

PERMIT NUMBER: ~~2014-60~~ 2014-65

Applicant Name Trent Fisher Phone: 437 672-6034

Property Owner Name: Trent Fisher Phone: 937 767-2214

Property Address: 131 W.C. College St

Greene County, Ohio Parcel I.D. # F19000100080033900 - Ept. of W 1/2 of lot 251

F19000100080006400 - E 1/2 of lot 251

F19000100080006300 - Lot # 250

F19000100080006200 - W 1/2 of lot 247

Present Zoning: Residential Present Use: Residential
R-B, Moderate Density Res.

Proposed Project: Addition to rear of principal structure (Res. House).

Note: A plot plan showing property dimensions, existing and proposed structure dimensions and their respective location on the property, street frontage and building height must be included in this drawing. This sketch does not need to be drawn to scale but must include the outlined information.

Notes/Special Conditions: Note: Property is comprised of four parcels all recorded on one deed.
Vol. 2728 Pg 1887. Any Replat of the parcels will require zoning compliance
of all structures.

Does the project included any subsurface dwelling space: Yes ☒ No ☐
If the answer above is YES, both applicant and owner must sign before a permit will be issued: Yes 9/26/14

I/We acknowledge that subsurface conditions (shallow bedrock, high water table) in Yellow Springs can cause just --
flooded basements/lower levels occasionally.

Applicant Signature: [Signature]

Approved by Village: [Signature] 9-15-14

Title: VILLAGE MANAGER

Fees: Zoning \$10.00

Water Tap/Meter _____

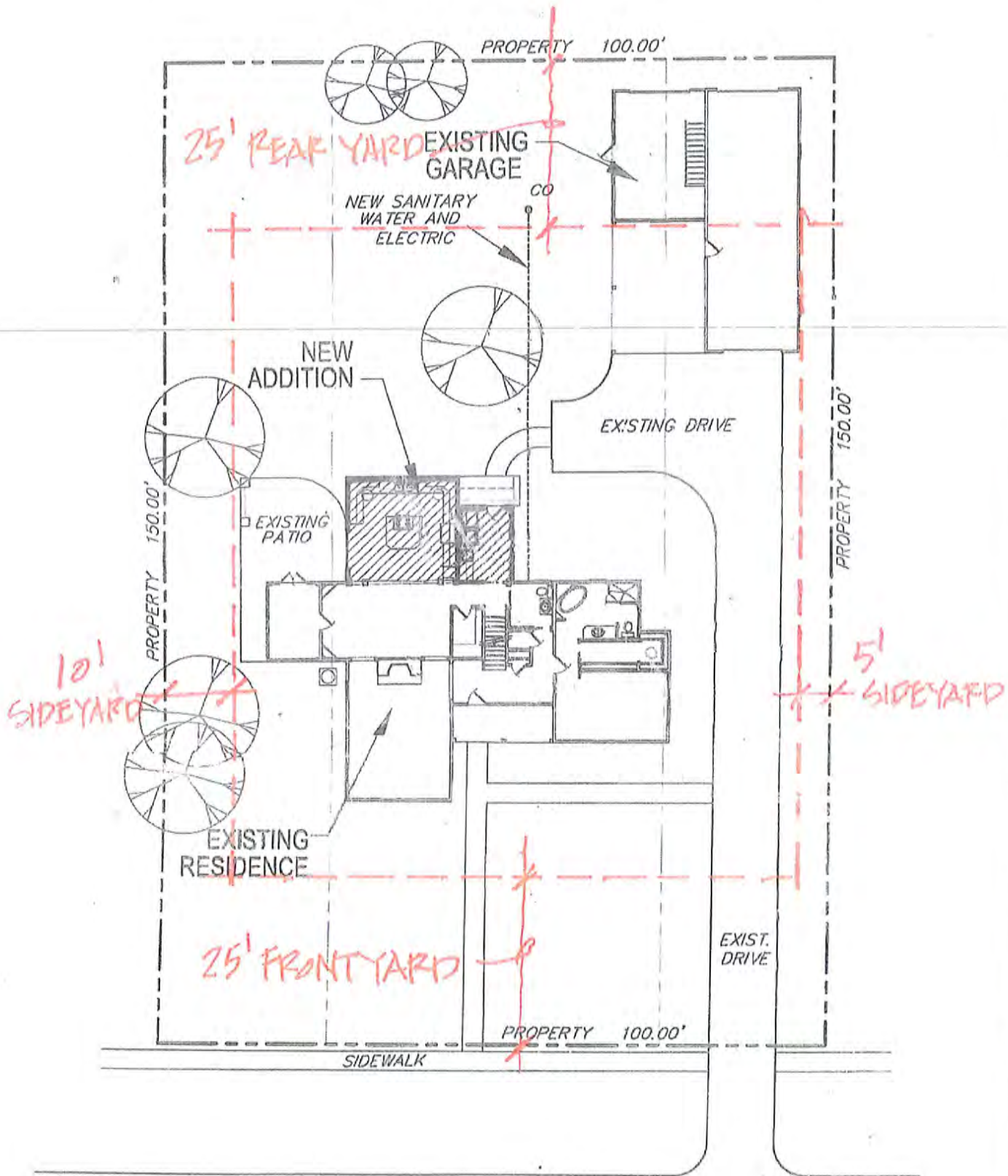
Sewer Tap _____

TOTAL \$10.00

RECEIVED: [Signature]

9-5-14

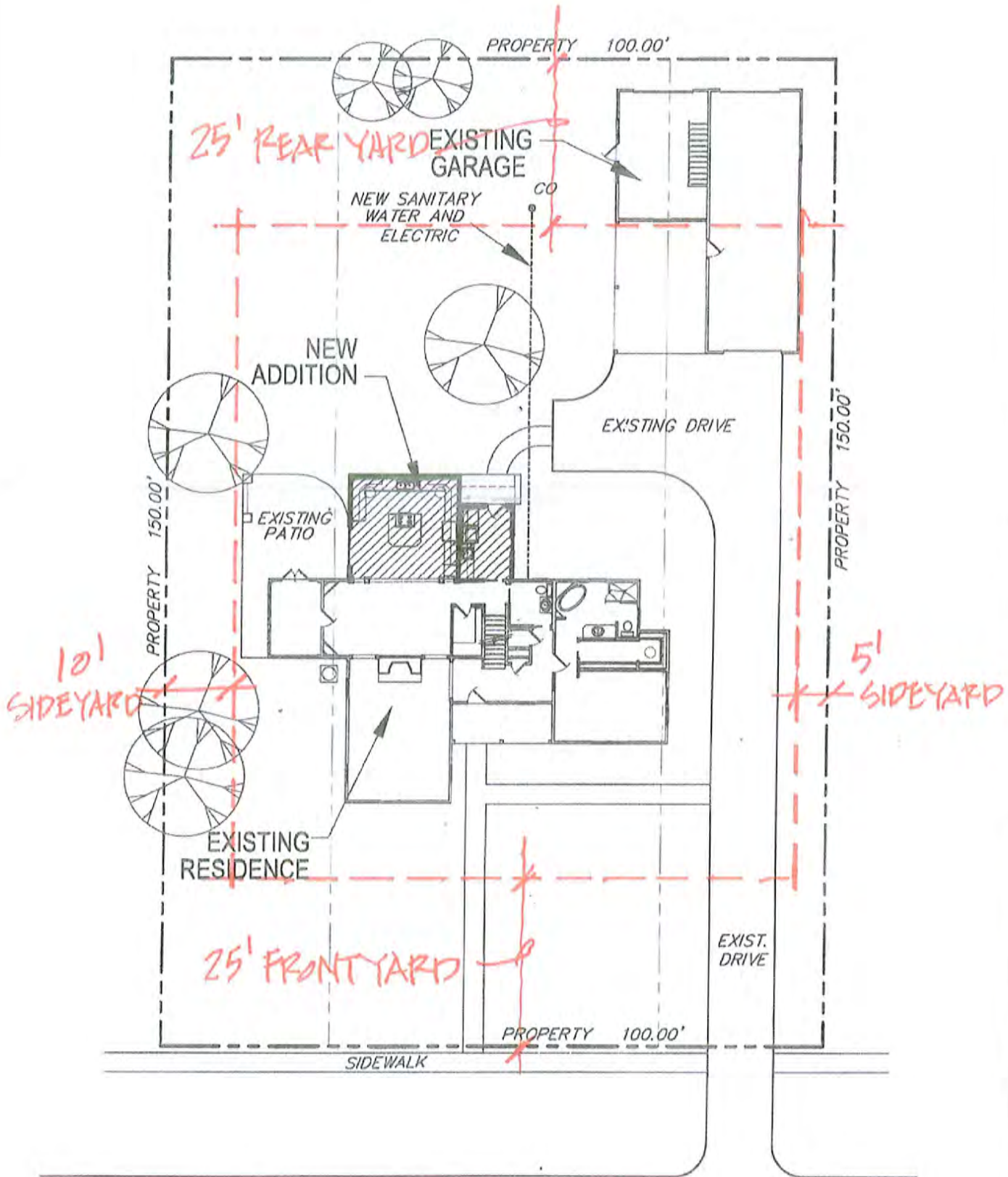
Approved contingent upon final approval
by BZA on Oct. 8, 2014. Construction may
start with understanding that denial
by BZA will necessitate removal of
any new construction.
Alternately a replat will be required.



W. CENTER COLLEGE STREET

AS BUILT DRAWINGS

REV	NO
1	
2	
3	
4	
5	
6	



W. CENTER COLLEGE STREET

AS BUILT DRAWINGS

REV	NO.
1	
2	
3	
4	
5	
6	

BOARD OF ZONING APPEALS

MEETING DATE: November 5, 2014

STAFF REPORT; Tamara Ennist, Village Zoning Administrator

APPLICANT: Nancy Kelley

PROPERTY OWNER: Malcolm E. & Nancy D. Kelley

REQUESTED ACTION: The request is for a variance to the front yard setback requirement to allow a front door entry awning feature.

HEARING NOTICE: 128 West North College Street (R-B, Moderate Density Residential District) – Owner, Nancy and Malcolm Kelley request a variance to Yellow Springs Zoning Code Section 1282.04 to allow an existing nonconforming structure that is currently located approximately fifteen (15) within the required minimum twenty (20) feet front-yard setback to extend an additional twenty-six (26) inches into the established front-yard setback; for the construction of a front door awning. Greene County Parcel ID #F19000100080008200. Applicable Yellow Springs Zoning Code sections are 1248.03a (Table), 1278.04 Variances, 1282.04 (Nonconforming Structures), 1284.06 (Nonconforming building or structure), 1284.08 (Setback), 1284.10 (Variance), 1284.11 (Yard), 1284.11 (Yard, required).

LOCATION: 128 West North College Street

GREENE COUNTY PARCEL ID#: F19000100080008200.

EXISTING ZONING: The property is located within the “R-B”, Moderate Density Residential District.

STAFF ANALYSIS OF THE APPLICATION: Property Information and analysis:

The property, located at 128 West North College Street, is lot #245 of the Yellow Springs Subdivision and is fifty (50) feet wide by one hundred-fifty (150) feet deep. It's located on the south side of W. North College Street just east of Phillips Street and has additional access from a rear alley. It is in the R-B, Moderate Density Residential District and in the current zoning code the following yard setbacks are required; a minimum front and rear yard setback distance of twenty feet (20'); a minimum side yard distance of five feet (5') as long as there is a total side yard setback distance of fifteen feet (15') provided.

According to the submitted site plan the existing one and a half story principle structure is setback five feet, two inches (5'2") from the front lot line; four feet, two inches (4' 2") from the east side lot line; approximately fifteen feet (15') from the west side lot line; and, approximately, ninety-three feet (93') from the rear lot line. As shown, the current front yard setback and the east side yard setback are less than the distance required by the current code. Therefore, the structure is identified as non-conforming.

With the front porch entry feature added to the house the required twenty feet (20') front yard setback would be reduced to three (3) feet.

Nonconforming structures are generally discouraged from being expanded in any way that increases the structures nonconformity [ZC Sec. 1282.01. In the current zoning code, there are two sections that provide relief for front yard setback distances; ZC Section 1282.04(a)(1), which allows, under specific circumstances, expansions or additions to a nonconforming structure that extend along the same plane as the existing nonconforming setback and ZC Section 1260.02(a)

that allows an adjustment to the front yard setback distance based on an average of two existing front yard setback distances within 200 feet of the property requesting the variance. Neither of these options provides enough relief for the applicant's proposal so they are requesting approval of a variance to ZC Section 1248.03(b) and Table 1248.03(a) to allow seventeen feet (17') reduction of the front yard setback for an awning entry feature over the front door that will extend two feet, two inches (2'2") into the presently established five feet, two inch (5'2") front yard area.

VARIANCE CRITERIA: Additional Information.

SECTION 1248(b) Table 1248.03(a) Dimensional Requirements: Residential Districts.

R-B Zoning District;

Minimum Front Setback – 20 feet (20') *(Current front yard setback is shown on the site plan as 62" (5' 2"). Proposed front setback is 3')*

Minimum Side Setback – 5 feet min. /15 feet total *(Current east side yard setback is 50" (4'2") and the current west side yard setback is approximately fifteen feet (15').*

SECTION 1260.02(a) Average Front Setback.

The minimum front setback requirements for a principal building in any Residential District may be reduced in accordance with the following:

(1) Where two or more lots entirely or partially within 200 feet of a subject lot, on the same side of the street and the same block, are occupied by principal buildings whose existing front setback is less than required by the zoning district, the average of the established setbacks for those buildings shall be the minimum required front setback for the subject lot.

SECTION 1282.04 Nonconforming Buildings and Structures

(a) Where a lawful nonconforming building or structure exists at the effective date of this zoning code, or an amendment thereto, that does not comply with the requirements of this code because of restrictions such as floor area, lot coverage, width, height, or setbacks, that building or structure may continue to be occupied and used as long as it remains otherwise lawful, subject to the following provisions:

(1) No nonconforming building or structure may be enlarged or altered in a way that increases its nonconformity, except in cases in which the setback of a building or structure is nonconforming by 50 percent or less of the distance required by this code. Only in these cases may the nonconforming setback be extended along the same plane as the existing nonconforming setback, provided that in so doing, the setback itself is not further reduced.

SECTION 1284.02 Definitions: A-B

Addition. Any construction which increases the size of a building or facility in terms of site coverage, height, length, width, or gross floor area, such as a porch, attached garage or carport, or a new room or wing.

Awning. A roff-like structure, generally made of canvas or plastic, mounted above a storefront, window or door and projects from the building wall as an architectural detail and provides shelter from sun and rain.

SECTION 1284.06 Definitions: L-M-N

Lot Lines. The lines bounding a lot, as defined below:

(1) **Lot line, front.** In the case of an interior lot, the line separating the lot from the street right-of-way or road easement.

(2) **Lot line, rear.** The lot line opposite and most distant from the front lot line. On a corner lot, the rear lot line is opposite the shorter of the two front lot lines. In the case of a triangular lot, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long, lying furthest from the front lot line and wholly within the lot. A through lot has no rear lot line.

(3) **Lot line, side.** The lot lines connecting the front and rear lot lines of an interior or corner lot or connecting the front lot lines of a through lot.

Nonconforming building or structure. Any building or structure that was legally established and in existence at the time this code, or any amendment, was adopted and which does not conform to the current regulations of the district in which it is now located.

SECTION 1284.08 Definitions: R-S

Setback. The required minimum horizontal distance between the building line and the related front, rear and side property lines.

Structure. Anything constructed, erected or placed which requires location on the ground or attachment to something having location on the ground including, but not limited to: buildings, accessory buildings, sheds, patios, gazebos, tennis courts, swimming pools, radio and television towers, decks and platforms; provided, however, that patios shall not be deemed structures if no part is above the ground and if it is located outside the minimum front, side and rear yard setback area. Lawful fences or walls, utility poles, basketball goals, mailboxes, sidewalks, driveways, streets, parking areas or retaining walls shall not be considered as structures for purposes of this code.

SECTION 1284.10 Definitions: V-W

Variance. A relaxation or modification of the requirements of this code permitted by the Board of Zoning Appeals on individual parcels of property as a method of alleviating practical difficulty in meeting the minimum requirements of the code.

SECTION 1284.11 Definitions: X-Y-Z

Yard. An unoccupied open space from the ground upward, between the building wall and the adjoining lot lines.

(1) **Front yard.** The space extending the full width of the lot between the nearest edge of a building and the front lot line.

(2) **Rear yard.** The space extending the full width of the lot between the nearest edge of a building and the rear lot line.

(3) **Side yard.** An open space extending from the front yard to the rear yard between the nearest edge of a building and the nearest side lot line.

Yard, required. That portion of the yard lying between the lot line and the required building setback line.

SECTION 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.

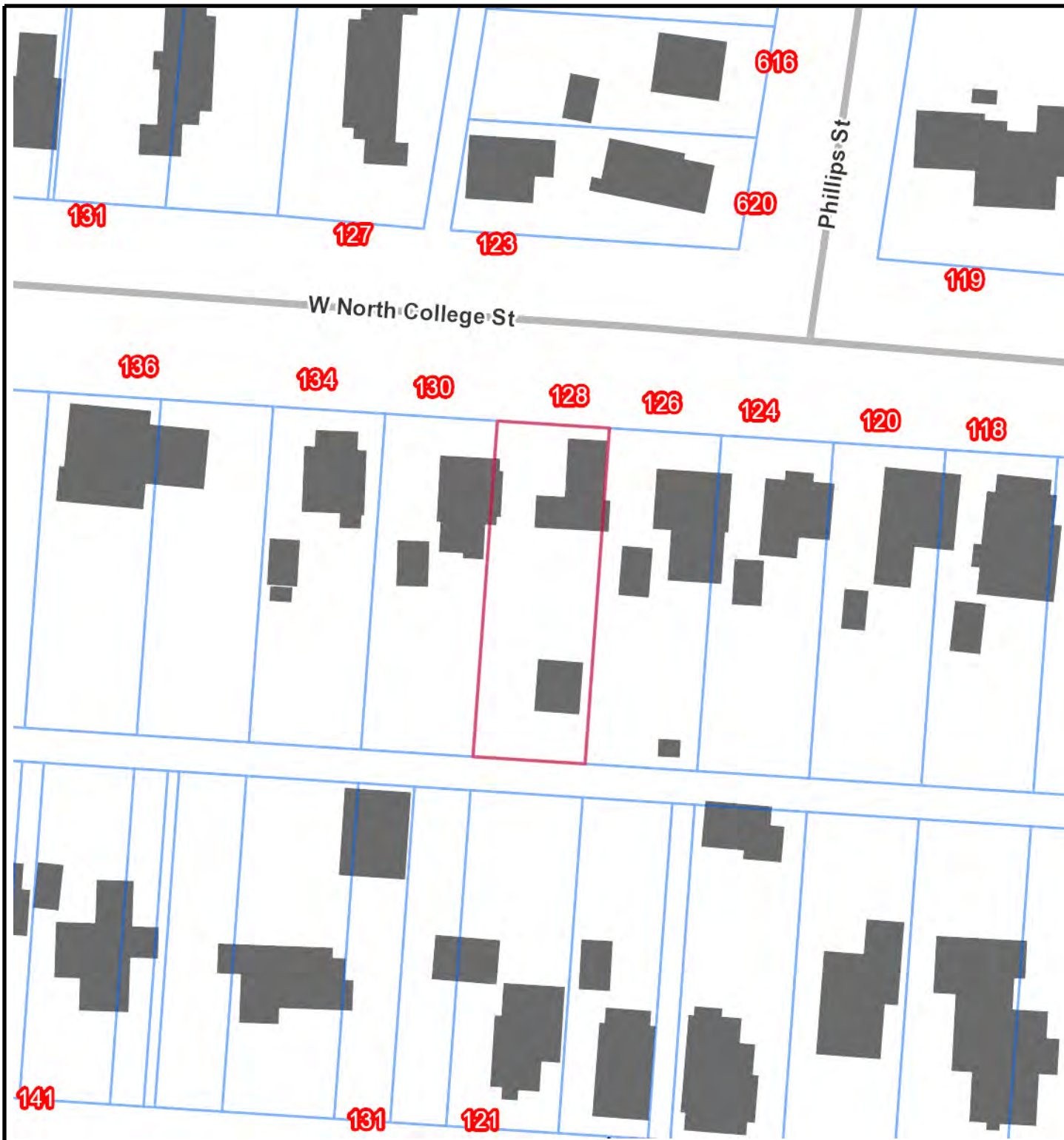
(a) *Variance Standards.* Variances from the terms of the code shall be granted only where the applicant shows that the strict application of a zoning requirement causes practical difficulties in the use of the property. The factors to be considered and weighed by the Board in determining whether a property 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.

STAFF RECOMMENDATION: Staff recommends that the Board of Zoning Appeals consider this application and if the decision is to approve the request, the Board may want to limit the variance approval to only the area necessary for the entry feature.

Based on the fact that the entry feature is not intended to be attached to the ground making it more decorative than structural, staff has no concerns. Staff does feel that the applicant should be advised that all easements encumbering the property are the responsibility of the property owner and placement of structures or decorations within an easement can result in removal by an easement holder if necessary for access.



Greene County GIS

Owner Information

Owner Name **KELLEY NANCY D**
 Owner Cont **& MALCOLM E**
 Mailing Addr **PO BOX 27**
YELLOW SPRINGS OH 45387

Property Information

Parcel ID **F19000100080008200**
 Address **128 NORTH COLLEGE**
 District **YELLOW SPRINGS VIL**
 Acres
 Description **YELLOW SPRINGS ALL**
LOT 245
128 W NORTH COLLEGE ST

Building Information

Story **1.5**
 Construction **FRAME**
 Style **OLD STYLE 1 1/2**
 Year Built **1865**
 Sq Ft **1151**
 Total Rooms **6**
 Bedrooms **3**
 Family Room **0**
 Full Baths **1**
 Half Bath **0**
 Basement **CRAWL**
 Fire Place
 Grade **D0**
 Mkt Adj
 Land Use **510**
 Heat Fuel **GAS**
 Heating **CENTRAL**

Values

	Appraised	Assessed
Land	\$47,180.00	\$16,510.00
Building	\$54,580.00	\$19,100.00
Total	\$101,760.00	\$35,610.00

Taxes

	Delinquent	1st Half	2nd Half
Real	\$0.00	\$777.93	\$777.93
Special	\$0.00	\$0.00	\$0.00
Total	\$0.00	\$777.93	\$777.93
		Total Taxes	\$1,555.86
		Due	\$0.00

Sales

	Price
Date	\$45,100.00
	08/11/14

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1 inch = 42 Feet

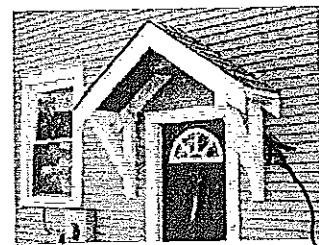
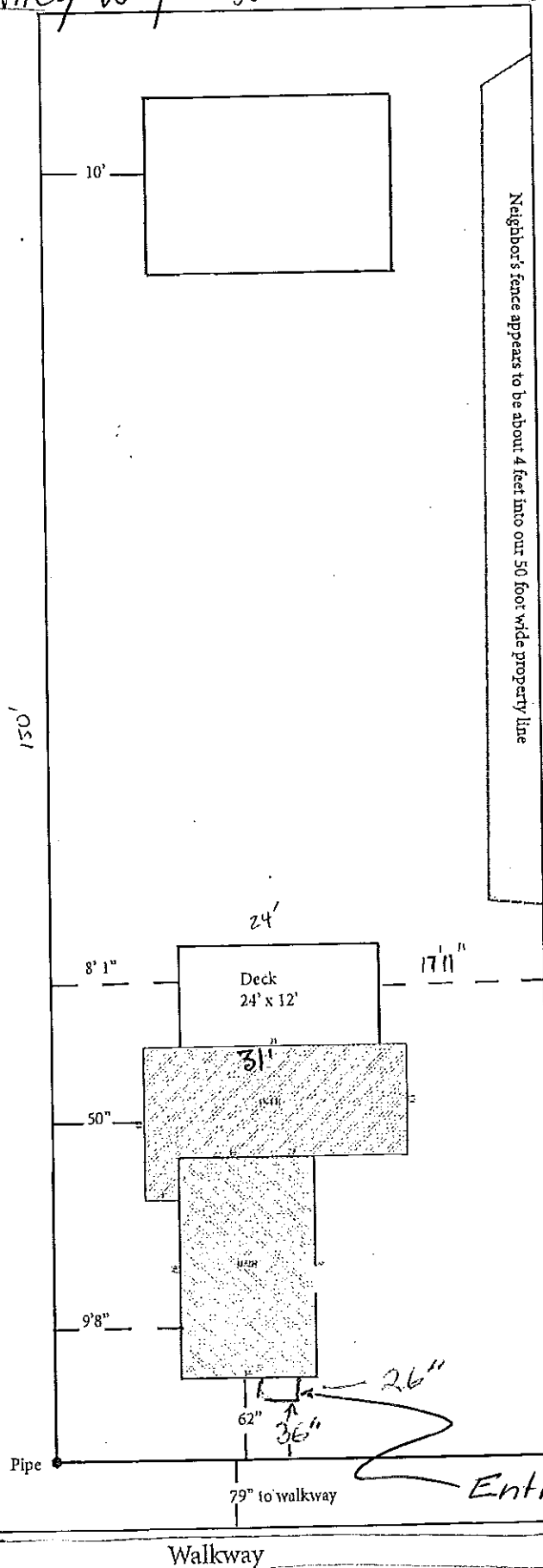
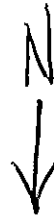


F19000100080008200 03/10/2012

Alley Way 50'

128 W North College
Yellow Springs, Ohio
45387

Nancy & Malcolm Kelley
767-1803



Entry Feature

W. North College Street

YELLOW SPRINGS, OHIO
BOARD OF APPEALS

RESOLUTION No. _____

Whereas, a Board of Appeals Application has been filed in the following form:

Village use only:	Address-	Tax Map page-
	128 W. North College	
	Owner- Nancy + Malcolm Kelley	Business name-
	Lot- 245	Use- residential
	Parcel- F-19-1-8-82	Subdivision-
On _____ (date), _____ first		
approached my office applying for a zoning permit for the following project: _____		
Eyebrow and front pad at the entry door		

The application for permit was denied for the following reasons: _____

Zoning Administrator: _____ Date: _____

Board Members:

The undersigned, being the owner or duly authorized agent of the owner of the above described property, wishes to appeal the decision of the Zoning Administrator.

I affirm that the zoning standards applying to my particular case have been fully explained to me. I further affirm that the general application of zoning standards in Yellow Springs has been explained to me, along with the constraints under which the Board of Appeals must operate in ruling on applications for variances and exceptions.

The six primary points listed below, excerpted from the Codified Ordinances, have been specifically addressed on a point-by-point basis within the space provided for each condition.

\$1125.064 Variances.

The provisions or requirements of the Zoning Code as will not be contrary to the public interest, but only in the case of peculiar conditions involving irregular, abnormally narrow, shallow or steep lots, or other unusual conditions, whereby strict and literal application of provisions or requirements of this Code would result in practical difficulty and unnecessary hardship that would deprive the owner of the reasonable use of the land or buildings involved. No variance from the strict application of any provision of this Zoning Code shall be granted by the Board unless it finds that all of the following facts and conditions exist:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, buildings, or structures within the same zoning district.

The 1865 structure may have been built before zoning codes pertaining to set-back distances. There was probably a staircase of some sort going to the second story door which has been removed.

That literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under terms of this Zoning Code.

Other properties in the same zoning district have porches and front door protection of some sort.

That the special conditions and circumstances do not result from the actions of the applicant.

Property was purchased in ugly condition

That granting the variance requested will provide the minimum necessary relief to alleviate the hardship.

The eyebrow and cement pad is the least intrusive way to provide some front door protection with curb appeal.

The granting the variance will be in harmony with the general purpose and intent of this Zoning Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

If the purpose of the Zoning Code is to create compatible dwellings, then yes, this particular improvement will be harmonious to the value of the neighborhood and cause no detrimental conditions

That the purposed variance will neither constitute a change of zoning district, on the Official Zoning District Map, nor be of so general or recurrent a nature as to constitute a defacto change in zoning regulations if approved. In no case shall the Board of Appeals approve a variance for a use which is not a permitted use in the zoning district in which the property, building or structure is located.

Probably not detrimental to zoning regulations in that homes have front door protection in residential areas and at least one step to ensure that water doesn't enter the home by the doors.

The narrative, a scale drawing plot plan, a list of the owners names and addresses of those properties that directly adjoin the subject property, and such materials that I may choose to bring to the Board's attention all constitute my application.

Henry O Keller

Signature

Date: 14 Oct 2014

Village use only:

Appellant-

Date materials received (including fee)-

Scheduled hearing date-

Advertising date-

Neighbors:

1.)

4.)

2.)

5.)

3.)

6.)

DECISION OF THE BOARD OF APPEALS

And

Whereas, Special conditions and circumstances exist/do not exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, buildings, or structures within the same zoning district, and

Whereas, the literal interpretation of the provisions of this Zoning Code would/would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Zoning Code, and

Whereas, the special conditions and circumstances do/do not result from the actions of the applicant, and

Whereas, the granting variance requested will/will not provide the minimum necessary relief to alleviate the hardship, and

Whereas, granting the variance will be/will not e in harmony with the general purpose and intent of the Zoning Code and will not be/will be injurious to the neighborhood or otherwise detrimental to the public welfare, and

Whereas, proposed variance will/will not constitute a change of zoning district, on the Official Zoning District Map, nor be of so general or recurrent a nature as to constitute a defacto change in zoning regulations if approved. In no case shall the Board of Appeals approve a variance for use which is not a permitted use in the zoning district in which the property, building or structure is located.

Now, therefore, be it resolved, that the Application is approved. (Any special conditions
are recorded in the Official
minutes of the Board Meeting.)

Now, therefore, be it resolved, that the Application is denied.

Chairperson Board of Appeals _____ Date: _____

Roll Call:

_____	_____	_____
_____	_____	_____
_____	_____	_____

128 W North College Street
Original and Mock Up Design Changes



128 W North College Street
Original and Mock Up Design Changes



128 W North College Street
Original and Mock Up Design Changes



128 W North College Street
Original and Mock Up Design Changes



BOARD OF ZONING APPEALS

MEETING DATE: November 5, 2014

STAFF REPORT; Tamara Ennist, Village Zoning Administrator

APPLICANT: Kat Johnston

PROPERTY OWNER: Kathleen Krehbiel Johnston

REQUESTED ACTION: The request is for a variance to the side yard setback requirement to allow an accessory detached garage to be replaced while still maintaining the current nonconforming side yard setback distance that exists with the current garage structure.

HEARING NOTICE: 802 South High Street (R-B, Moderate Density Residential District) – Owner, Kathleen Johnston requests variances to the Yellow Springs Zoning Code Section 1248.03a (Table) to allow reduced side-yard setbacks; to remove and rebuild a larger garage – the new garage will be no closer to the neighbors than it currently stands. The applicant is requesting a 3.5 ft. variance from the required five (5) feet minimum side yard setback to the south property line of Greene County Parcel ID; #F19000100080003700 and an 8.5 ft. variance from the required ten (10) feet minimum side yard setback to the north property line of Greene County Parcel ID; #F19000100080003700. Note: The Johnston's Property is comprised of four (4) contiguous parcels. Applicable Yellow Springs Zoning Code sections are: 1248.03a (Table), 1260.04 (Uses), 1278.04 Variances, 1284.06 (Lot), 1284.08 (Setback), 1284.10 (Variance), 1284.11 (Yard), 1284.11 (Yard, required).

LOCATION: 802 South High Street

GREENE COUNTY PARCEL ID#: F19000100080003400, F19000100080003500, F19000100080003600, F19000100080003700.

EXISTING ZONING: The property is located within the "R-B", Moderate Density Residential District.

STAFF ANALYSIS OF THE APPLICATION: Property Information and analysis:

The property, located at 802 South High Street, is part of the Fairview Subdivision and consists of four parcels; lot #2 (except the west 25'), lot #3 (except the west 25'), lot #4 (except the west 25') and lot #5 (except the west 25'); all included on the deed recorded in volume 3505 on page 913. Each lot is twenty-five feet (25') wide by one hundred-twenty-five feet (125') deep. This provides one hundred feet (100') of frontage on S. High Street and one hundred-twenty-five feet (125') of frontage on W. Center College Street.

The property contains a single-family principle structure and a one-car detached garage. The principal structure, built in 1925, appears to encumber three of the four lots; lots 3, 4, & 5 and the existing garage appears to be situated within lot #5. The applicant submitted a site plan showing that the existing garage is located one foot, six inches (1'6") from the south side lot line.

The property owner would like to replace the old detached nonconforming single car garage with a new nonconforming two-car detached garage (26'L X 22'W [572 sq. ft.]) maintaining the current one foot, six inches (1'6") side yard setback and the twenty-seven feet, six inch (27' 6") rear yard setback. The current zoning code identifies that detached accessory structures must be a minimum of five feet (5') from the side lot line and a minimum of ten feet (10') from the rear lot line. The applicant is requesting a variance of three feet, six inches (3'6") to allow the new

garage to be located one foot, six inches from the south side lot line and a variance of five feet from the north lot line of lot #5 to allow the north wall of the garage to be located one foot, six inches from this interior side lot line with a four foot section crossing over the interior side lot line.

VARIANCE CRITERIA: Additional Information.

SECTION 1248.03 (Table) Lot and Width Requirements: Residential Districts.

Minimum Lot Area – 6,000 square feet (single-family residence) *(Current lot area of each parcel is 3,125 square feet and the total property area is 12,500 square feet)*

Minimum Lot Width – 50 feet *(Currently the lot width of each lot is twenty-five feet (25') and the total lot width along High Street is one hundred feet (100') and along W. Center College Street is one hundred twenty-five feet (125').)*

SECTION 1260.04(a) Accessory Buildings and Structures

Minimum Front Setback – Shall not be erected in any front yard. May be erected in a rear yard...

Minimum Side Setback – 5 feet minimum *(Proposed side setbacks are one foot, six inches (1'6") from the south side lot line and zero feet (0') from the north interior lot line)*

Minimum Rear Setback – 10 feet minimum *(Proposed rear setback is twenty-seven feet, six inches (27'6"))*

Maximum Rear Yard Coverage – 30% of the required rear yard. *(The required rear yard is 2000 square feet and a maximum of 600 square feet of that area could be covered with accessory structures. The proposed coverage of the required rear yard is 0%.)*

SECTION 1260.02(f) Required Yards or Lots. No lot or lots in common ownership and no yard, court, parking area or other space shall be so divided, altered or reduced as to make the area or space less than the minimum size required by this code. If already less than the minimum size required, the area or space shall not be further divided or reduced.

SECTION 1282.04 Nonconforming Buildings and Structures

Where a lawful nonconforming building or structure exists at the effective date of this zoning code, or an amendment thereto, that does not comply with the requirements of this code because of restrictions such as floor area, lot coverage, width, height, or setbacks, that building or structure may continue to be occupied and used as long as it remains otherwise lawful, subject to the following provisions:

- (2) In the event that a nonconforming building or structure is destroyed to an extent of more than 50 percent of its replacement value, exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this code; provided that the Board of Zoning Appeals may, upon application, permit the reconstruction of the nonconforming building or structure if all of the following conditions are met:
 - a. The prior nonconforming condition(s) shall not be increased.

- b. The new building or structure shall be placed on the original foundation, unless the building or structure could be so located as to reduce the extent of its nonconformity on the lot.
- c. The application to reconstruct the nonconforming building or structure shall be filed with the zoning administrator within six months of the event in which the building or structure was damaged or destroyed.
- d. The reconstruction of the building or structure shall not be detrimental to adjacent property and the surrounding neighborhood.

SECTION 1284.02 Definitions: A-B

Accessory structure. A detached subordinate structure, the use of which is incidental to, customarily associated with, and related to the principal structure or use of the land and which is located on the same lot as the principal structure or use.

SECTION 1284.04 Definitions: E-F-G

Garage, private. A detached accessory building or portion of a principal building for the parking or temporary storage of automobiles, recreational vehicles and/or incidental personal property of the occupants of the premises.

SECTION 1284.06 Definitions: L-M-N

Lot. A legally described and recorded parcel of land occupied or intended to be occupied by a principal building or group of buildings and accessory buildings, or utilized for a principal use and its accessory uses, together with such yards and open spaces as are required by this code.

Lot area. The total horizontal area within the lot lines of the lot, excluding any street right-of-way or easement dedicated for street purposes.

Lot Coverage. The part of the lot occupied by buildings or structures, expressed as a percentage, including accessory buildings or structures, but not including parking lots.

Lot Lines. The lines bounding a lot, as defined below:

(1) Lot line, front. In the case of an interior lot, the line separating the lot from the street right-of-way or road easement.

(2) Lot line, rear. The lot line opposite and most distant from the front lot line. On a corner lot, the rear lot line is opposite the shorter of the two front lot lines. In the case of a triangular lot, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long, lying furthest from the front lot line and wholly within the lot. A through lot has no rear lot line.

(3) Lot line, side. The lot lines connecting the front and rear lot lines of an interior or corner lot or connecting the front lot lines of a through lot.

Lot of record. A lot that is separately described within an approved subdivision or a parcel of land surveyed and legally recorded with the Village and county.

Nonconforming building or structure. Any building or structure that was legally established and in existence at the time this code, or any amendment, was adopted and which does not conform to the current regulations of the district in which it is now located.

SECTION 1284.08 Definitions: R-S

Setback. The required minimum horizontal distance between the building line and the related front, rear and side property lines.

SECTION 1284.10 Definitions: V-W

Variance. A relaxation or modification of the requirements of this code permitted by the Board of Zoning Appeals on individual parcels of property as a method of alleviating practical difficulty in meeting the minimum requirements of the code.

SECTION 1284.11 Definitions: X-Y-Z

Yard. An unoccupied open space from the ground upward, between the building wall and the adjoining lot lines.

(1) **Front yard.** The space extending the full width of the lot between the nearest edge of a building and the front lot line.

(2) **Rear yard.** The space extending the full width of the lot between the nearest edge of a building and the rear lot line.

(3) **Side yard.** An open space extending from the front yard to the rear yard between the nearest edge of a building and the nearest side lot line.

Yard, required. That portion of the yard lying between the lot line and the required building setback line.

SECTION 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.

STAFF RECOMMENDATION: Staff recommends that the Board of Zoning Appeals consider this application and determine whether this request would meet the intent of the zoning code.



Date: Oct. 1, '14

BOARD OF ZONING APPEALS
APPLICATION FOR VARIANCE

Variance # _____

Name of Applicant: KAT JOHNSON

Phone: 937-668-2857 Email: Kate@NewLibertyFarms.net

Property Owner: SAME

Phone: _____ Email: _____

Address of Proposed Project: 802 S. High St., VS

Greene County Parcel I.D. #: _____

Description of Proposed Project: Remove existing old garage and rebuild new larger garage. The footers will be redone on the same spot as the old ones, so garage will be no closer to neighbors than it currently stands.

On _____ (date), _____

first approached my office applying for a zoning permit for the project described above. The application for permit was denied for the following reasons: _____

Fee: \$35.00 Paid on: _____ (date) Attach copy of check or receipt

Zoning Administrator: _____ Date: _____

ZONING/UTILITY TAP PERMIT
Village of Yellow Springs, Ohio

As required by Section 1240 of the Village Zoning Code: A zoning permit shall be required and obtained prior to any change of use of structure or of land. The following information is necessary to initiate the acquiring of such permit.

PERMIT NUMBER: _____

Applicant Name KAT JOHNSTON Phone: 937-668-2857

Property Owner Name: SAME Phone: _____

Property Address: 802 S. HIGH ST, VS

Greene County, Ohio Parcel I.D. # _____

Present Zoning: _____ Present Use: _____

Proposed Project: Rebuild garage somewhat larger. South Footers & wall will be in same location as now.

Note: A plot plan showing property dimensions, existing and proposed structure dimensions and their respective location on the property, street frontage and building height must be included in this drawing. This sketch does not need to be drawn to scale but must include the outlined information.

Notes/Special Conditions: _____

Does the project included any subsurface dwelling space: Yes _____ No ✓
If the answer above is YES, both applicant and owner must sign before a permit will be issued:

I/We acknowledge that subsurface conditions (shallow bedrock, high water table) in Yellow Springs can cause wet or flooded basements/lower levels occasionally.

Applicant Signature: Kat Johnston

Approved by Village: _____

Title: _____

Fees:

Zoning	_____
Water Tap/Meter	_____
Sewer Tap	_____
TOTAL	_____

RECEIVED:

15 SEPT 14

KAT,

I DID MY REVIEW OF YOUR PROPERTY LINES. ONLY ONE PIN IS OBVIOUS AT THE NW CORNER. THE PIN AT THE SW CORNER HAS BEEN SURMOUNDED BY THE TREE GROWING THERE. HOWEVER THE PIN 25' TO THE WEST AT THE NW CORNER OF THE WINKS LOT IS OBVIOUS AND SITS ON THE SAME LINE AS THE SOUTH SIDE OF YOUR PROPERTY. THERE IS NO PIN AT THE SE CORNER AND I DOUBT THERE IS A PIN AT THE NE CORNER. HOWEVER THERE ARE PINS AT WINKS SE CORNER AND AT THE CORNER AT SOUTH COLLEGE.

CONSEQUENTLY I COULD DETERMINE THAT THERE IS ABOUT ONE TO ONE AND ONE HALF FEET BETWEEN YOUR GARAGE AND THE SOUTH LINE. THE GARAGE SITS ABOUT 71.5 FEET FROM THE FRONT LINE, EXTENDS 26 FEET, AND IS 27.5 FEET FROM THE REAR LINE. THE GARAGE IS 12 FEET WIDE AND SITS 10 FEET FROM THE BACK LINE OF THE HOUSE.

RICHARD

1112 XEMA AVE

YS OH 45387-1101

937 767 9222

RLBZOPF@GMAIL.COM

TOTAL CHARGE:

\$ 75.00

WEST CENTER COLLEGE STREET

125.00'

Rev	Date	Description	DMR	APVD	Date
1	08.23.14	From Original	BR		

Mato & Kathleen Johnston
602 S. High Street
Yellow Springs, Ohio 45387
937-668-2867

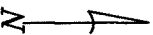
Drawn by:
Bill Hartman
223 Wickenhall Drive
Yellow Springs, Ohio 45387
937-768-4140

Existing Johnston Property

Site Plan Scaled to fit paper

125.00'

3



25.00'

125.00'

WOOD DECK
ENCLOSED PORCH

4

25.00'

EXISTING HOUSE

OPEN PORCH

125.00'

10.00'

25.00'

27'-8"

PORCH

EXISTING GARAGE

1'-8"

125.00'

SOUTH HIGH STREET

WEST CENTER COLLEGE STREET

125.00'

Rev.	Date	Description	DWR	APVD	Date
1	09.25.14	From Original	BH		
2	10.02.14	Remove proposed carport & driveway	BH		

Mark & Kathleen Johnston
802 S. High Street
Yellow Springs, Ohio 45387
937-608-2867

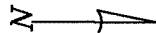
Drawn by:
Bill Hardman
223 Whitehall Drive
Yellow Springs, Ohio 45387
937-768-4140

Proposed Johnston Garage

Site Plan Scaled to fit paper

125.00'

3



25.00'

125.00'

EXISTING
WOOD
DECK

EXISTING
ENCLOSED
PORCH

4

25.00'

EXISTING
HOUSE

EXISTING
OPEN
PORCH

125.00'

10.00'

4'x4'

27'-6"

PROPOSED
GARAGE
26' x 22'

5

CONCRETE APRON

EXISTING
PORCH

25.00'

1'-6"

125.00'

SOUTH HIGH STREET