



COLERAIN TOWNSHIP BOARD OF ZONING APPEALS

Regular Meeting

4200 Springdale Road - Cincinnati, Ohio 45251

Wednesday, August 23, 2017 – 6:30 p.m.

1. Meeting called to order.
2. Pledge of Allegiance.
3. Explanation of Procedures.
4. Roll Call.
5. Swearing in: appellants, attorneys and all speakers in the cases.
6. Hearing of Appeals:

A. Case No.: **BZA2017-11 –CONTINUANCE - Section 10.2.1(A)(4)** which requires that accessory buildings be located on the same lot as the principal use which it serves; **Section 10.2.1(A)(8)** which requires that no accessory building occupy more of the lot area than the footprint of the principal building; **Section 10.2.3(B)** which restricts the height of residential accessory buildings to 15 feet; **Section 12.2.1(B)(3)** which specifies that the height of a building with a gable roof is measured at the mean height of the eaves and ridge of the roof.

Location: 11873 Stone Mill Road

Applicant/Owner: Dale and Sheri Lutz

B. Case No.: **BZA2017-15** – request for variance from: **Section 7.3.1** which requires that all new construction adhere to the setback standards outlined in Table 7.3.1; **Table 7-2** which requires a minimum of a 30-foot front yard setback for new construction measured from the street right of way in the R-6 zoning district; **Section 12.3.3** which allows unenclosed porches to extend up to 10 feet into the minimum required setback which would be 20 feet from the Pottinger Rd. right-of-way.

Location: 10426 Pottinger Road, Cincinnati, Ohio 45251

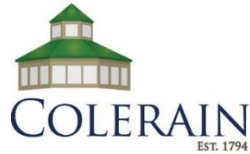
Applicant/Owner: David Meyer, Owner

C. Case No.: **BZA2017-16** – Change in Non-Conforming Use from Storage & Equipment to Machine Shop

Location: 3354 Galbraith Road

Applicant/Owner: Darrell Stahley / Stahley Family Limited Partnership

7. Unfinished Business: None.
8. Approval of Minutes: July 26, 2017 meeting.
9. Next Meeting: September 27, 2017 meeting.
10. Administrative Matters: None.
11. Adjournment.



Staff Report:	Board of Zoning Appeals
Case#	BZA2017-11
Variance Request:	Accessory Building Lot, Size, and Height
Location:	11873 Stone Mill Road
Meeting Date:	August 23, 2017
Prepared by:	Marty Kohler Senior Planner

Property owners Dale and Sheri Lutz have requested a variance from Sections 10.2.1(A)(4), 10.2.1(A)(8), 10.2.3(B), and 12.2.1(B)(3) for a proposed accessory structure on a lot separate from that of the principal building, exceeding the maximum allowable size and height.

Current Status:

The Board of Zoning Appeals held a public hearing for the consideration of the height, size and placement variance for the accessory structure for the storage of recreational vehicles, property maintenance equipment and other vehicles. The BZA expressed concerns at the June 28, 2017 meeting regarding the request and asked the applicants to consider other alternatives. The BZA subsequently tabled the matter to the July 26 meeting and then granted an additional continuance to the August 27 meeting.

The applicants have been working to consolidate the two parcels in order to eliminate the need for the variance for placement of the building on a separate parcel. The applicants are still requesting a variance from Section 10.2.1(A)(8) to allow the proposed building to exceed the maximum allowable size by 1,211 square feet. They are also requesting a variance from section 10.2.3(B) to allow the height of the proposed building to exceed the maximum allowance by four feet.

Staff Recommendation: DENIAL OF THE VARIANCE REQUEST PER THE ATTACHED FINDINGS AND RECOMMENDATION

Jenna LeCount

From: Sheri Lutz <Sheri.Lutz@possible.com>
Sent: Tuesday, August 15, 2017 10:35 PM
To: Jenna LeCount
Cc: dlutz@fox19.com
Subject: Dale & Sheri Lutz - August zoning appeals board meeting - request to move forward
Attachments: Lutz barn aug_14_17.pptx

Jenna –

Following up on our conversation today, this note is to confirm that we are requesting permission to move forward with our Zoning Variance Appeal Z2017-0123.

It is related to the property at 11873 Stone Mill Road, 45251. Assuming this would happen at the August appeals meeting.

We have the following update.

- We are moving forward with the survey of our two parcels into order to obtain a consolidation survey. This is being completed this week and we will have the paperwork next week so that we can move the process forward with Hamilton County.
- We have not changed our proposed building plan for the accessory building. We would however like to represent to the zoning appeals board to address concerns with the three zoning issues related to the relative size and height of our proposed accessory building.
- We would like to present the three pages in the attached pdf. It includes to scale drawings showing relative size between our home and the proposed building. There is a third drawing that shows to scale representation of the contents. This is to address a concern regarding the need for a building this size that the zoning board raised.

Please let me know if you have any questions. I can be reached via email or at the mobile number below. My husband Dale can be reached via the email attached or at 513-379-4362.

Thanks so much,

SHERI LUTZ

Creative Services Director / Cincinnati

POSSIBLE

302 W. Third Street, Suite 900 Cincinnati, OH 45202

+1 513.381.1380

+1 513.225.8269 Mobile

SHERI.LUTZ@POSSIBLE.COM

WWW.POSSIBLE.COM

From: Jenna LeCount [<mailto:jlecount@colerain.org>]
Sent: Wednesday, July 19, 2017 10:35 PM
To: Sheri Lutz <Sheri.Lutz@possible.com>
Cc: dlutz@fox19.com; Martin Kohler <mkohler@colerain.org>
Subject: RE: Dale & Sheri Lutz - Request for Continuance

Mr. and Mrs Lutz,

We are actively working the situation and our plan is to have the merging of the parcels underway with Hamilton County in time for the August Zoning Appeals meeting.

We are requesting a continuance to the August meeting.

Please let me know of any additional questions or concerns. My husband Dale Lutz is copied on this email and can also be reached.

Thanks so much!

SHERI LUTZ

Creative Services Director / Cincinnati

POSSIBLE

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SHERI.LUTZ@POSSIBLE.COM

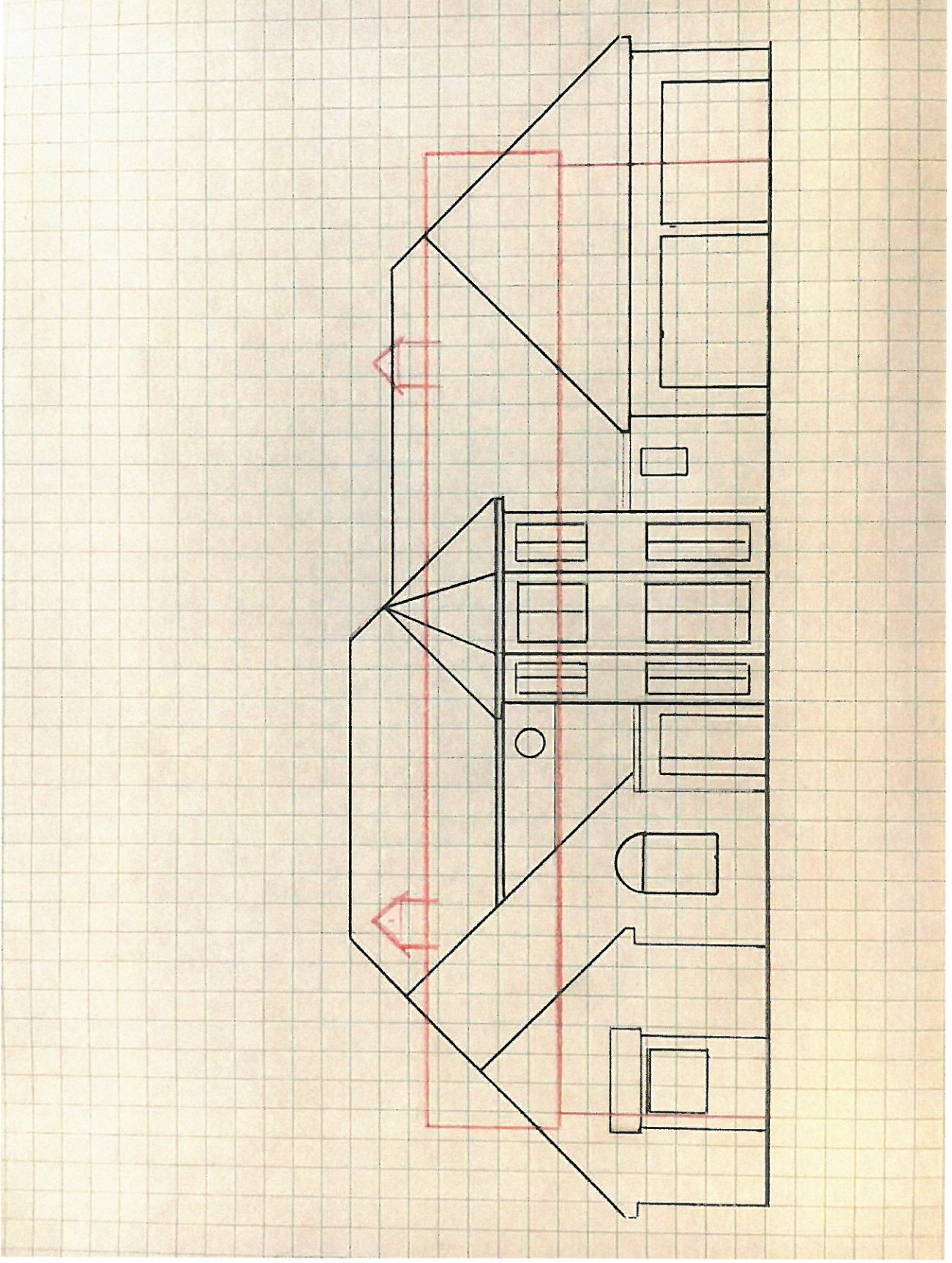
WWW.POSSIBLE.COM

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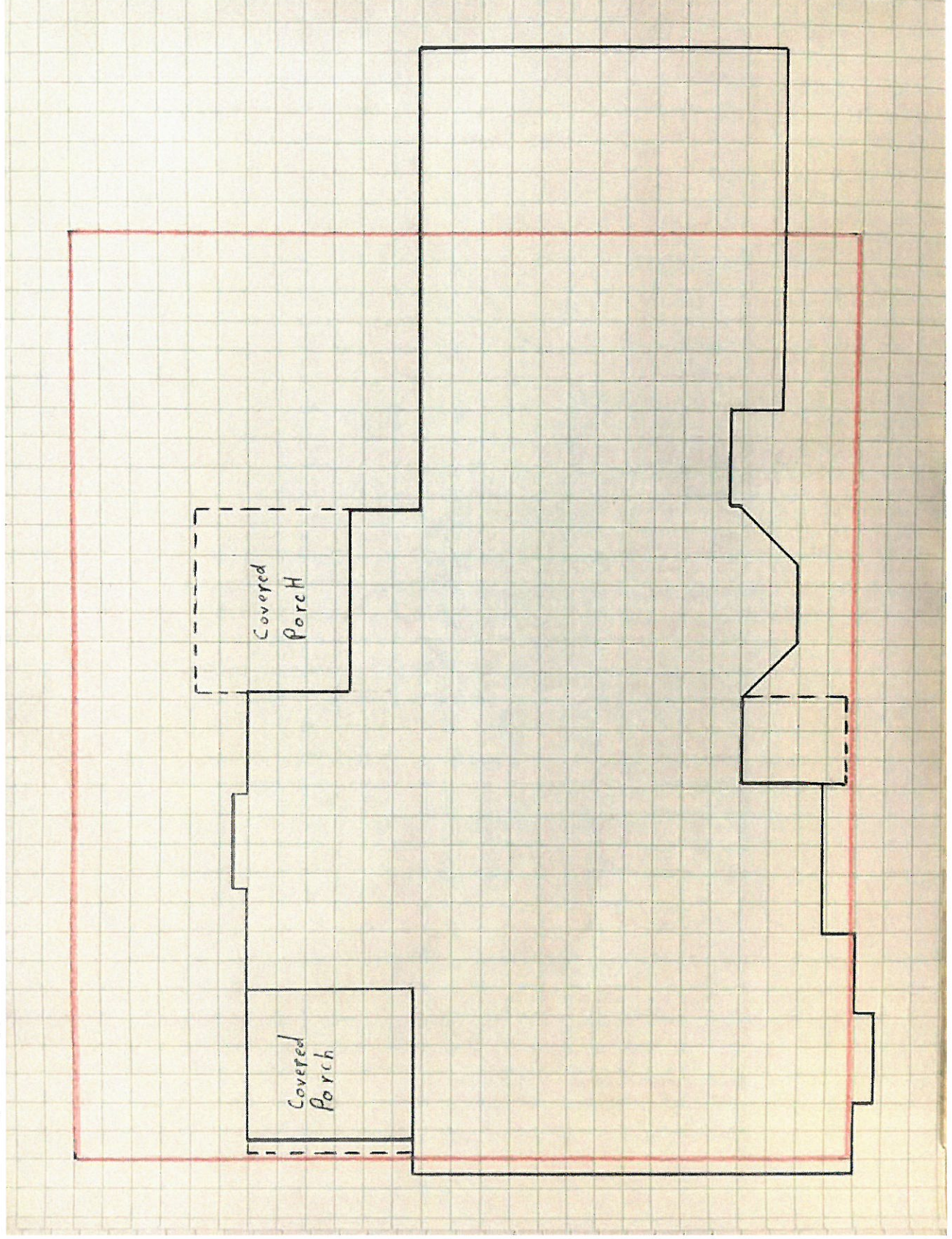
Sheri & Dale Lutz – 11873 Stone Mill Road 45251 Scale drawing of home and proposed accessory building.
Objective: Show the relative height and length of the two buildings.

Front elevation of our home is in black. The front elevation of our proposed accessory building is in red.
The height of the barn is actually lower than our home and not as long.



Sheri & Dale Lutz – 11873 Stone Mill Road 45251 Scale drawing of home and proposed accessory building.
Objective: Show the relative width and length of the two buildings.

Overhead footprint of our home is in black. Overhead footprint of our proposed accessory building is in red.
The proposed accessory building is not as long as our home. It is deeper/wider than our home but not by a significant amount.





Staff Report:	Board of Zoning Appeals
Case#	BZA2017-15
Variance Request:	Room Addition & Porch Setback
Location:	10426 Pottinger Rd.
Meeting Date:	August 23, 2017
Prepared by:	Marty Kohler Senior Planner

Dave Meyer, property owner, has requested a variance from Section 7.3.1 of the Colerain Zoning Resolution for a proposed room addition and porch within the required front yard.

Case History:

The subject property is located at the northeast corner of Pottinger Rd. and Struble Rd. The house was constructed in about 1915 on a 0.42 acre lot with 1,244 square feet of floor area. A 1,632 square foot accessory structure was constructed on the property in 2005 after the owner first obtained a variance to allow for the accessory structure to exceed the size of the house.

Current Proposal

On June 6, 2017 the applicant applied for a Zoning Certificate to construct an open covered front porch on the south side of the house and a room addition on the north side of the house. The Zoning Certificate was denied due to the improvements being within the required front yard setback with respect to Pottinger Rd. The proposed addition would add about 238 square feet of living area to the house.

Zoning Regulations

Section 7.3.1 of the Zoning Resolution contains the minimum building setback requirements for residential districts. The property is zoned R-6 Urban Residential District which requires a minimum front yard setback of 30 feet. Since the house is on a corner lot, the front yard setback requirement applied to both the Pottiner and Struble frontages. The existing house was constructed well before the current standards were adopted and has only a 6 foot deep front with respect to Pottinger Rd. The house has about a 105 foot front yard setback with respect to Struble Road which substantially exceeds the front yard requirement. The house is considered to be a legal non-conforming structure which cannot be enlarged in floor area unless allowed by the Board of Zoning Appeals.

The proposed addition to the rear of the house does not encroach closer to Pottinger Rd. than the existing house, however the portion of the house to which the proposed addition is attached is only 10 foot wide and with the existing 6 foot setback from Pottinger Rd., the proposed addition would start with a 16 foot setback from Pottinger

and extend away from the road by 18 feet leaving only the eastern 4 feet of the proposed addition out of the required front setback.

The proposed covered front porch also encroaches in the required front yard with respect to Pottinger Rd. Open covered porches are permitted to extend up to 10 feet into the required front yard allowing it to be within 20 feet of the right-of-way. The proposed porch would be within 15 feet of Pottinger Rd. The property owner is seeking to cover the area in front of the front door that is towards the Pottinger Rd. end of the house. (To shorten the porch to meet the setback would provide no shelter for the front door)

Other houses in the neighborhood are of newer construction and comply with the front yard setback standards.

Staff Findings:

1. The property in question would likely yield a reasonable return without the variance. The property can reasonably be used as a single family dwelling within the limits of the zoning regulations.
2. The setback variances requested are substantial since the proposed building extends into the minimum side yard setback by about 47%.
3. The granting of the variances would grant a consideration that is not available to other property owners in the neighborhood.
4. The granting of the variances would probably not have a negative impact on neighboring property but would create a precedent to allow for additions if requested by neighboring property owners.
5. Approval of the setback variances would not affect the delivery of government services.
6. There are no topographic issues related to this property which would constrain the reasonable application of the setback regulations without additional expenses.
7. By taking into consideration the benefit to the applicant if the variance is granted, as weighed against the potential detriment to the health, safety and welfare of the neighborhood and broader community, staff finds that substantial justice would be done by granting the variances for setback of the proposed rear room addition and covered front porch.

Staff Recommendation: APPROVAL OF THE VARIANCE REQUESTS.

**APPLICATION FOR APPEAL
COLERAIN TOWNSHIP BOARD OF ZONING APPEALS**

4200 Springdale Rd
Cincinnati, Ohio 45251
(513) 385-7505; Fax (513) 245-6503

An appeal must be filed within 20 calendar days of the action causing the appeal (ORC 519.15)

Application number: BZA 2017-15

Owner: David Meyer Applicant: David Meyer
Property Address: 10426 Pottinger Rd
City: Cinti State/Zip: Ohio 45251
Applicant Address: 10426 Pottinger Rd
City: Cinti State Zip: OH 45251
Phone: 513-535-5858 Cell
Auditor's Book-Page-Parcel Number: 510 -- --

Zoning Classification: _____

Appeal to (check one): Refusal to issue Zoning Certificate Citation for Violation

Required Documents:

- ☒ Signed, typewritten *Justification of Variance* statement addressing the items listed on the reverse of this page - **8 copies.**
- ☒ Site Plan (surveyor/engineer's seal may be required) and construction drawings - **8 copies.**
- ☒ Names and addresses of adjacent property owners (use County Auditor's records) - **2 copies.**
- ☐ Plat showing adjacent property owners - **2 copies.**
- ☐ Fees.

Office use only:	Appeal Fee:	<u>350</u>
	Legal Notice:	<u>30</u>
	Mailing/adjacent Property Owners:	<u>3.68</u>
	Total Amount Paid:	<u>383.68 cc</u>

*An application for appeal will not be accepted until all of the requirements are met.
Failure to appear at the scheduled public hearing may result in dismissal of the appeal.*

Signature of Property Owner:

David Meyer

Signature of Applicant (if not the Owner):

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JUN 29 2017

(over)

COLERAIN ZONING

David Meyer (Owner/Applicant)
10426 Pottinger rd
Cinti., Oh. 45251

6/26/1

Colerain Twp Board of Appeals
Justification of Variance Statement Response

Q/1. New Deck Front Yard: replace damaged front concrete porch with new wood deck and
overhang Room Addition :extend existing 10x15 room, 18ft across the
rest of the back of house
Section 7.3.1 outlined in table 7.3.1/ Table 7.2 Addition- Sect. 12.3.3 Deck

Q/2. These items are permitted, the exception is that the house is 102yrs old and
these sections came
after the road and house location were already set.

Q/3. Neither builds will affect the public interest. The new deck will bring value
and better apperance to the house.

The addition is on the other side of the 10x15 existing addition that is
closest to pottinger now.

This addition will also add better apperance to the house.

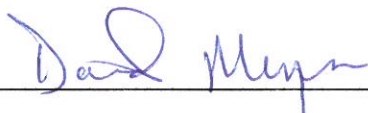
Q/4. The Front existing concrete deck is cracked and caved in in causing water to
get into the house.

The rear addition will add needed space because of the old farm house being
very small.

Q/5. This variance is needed due to the fact that the house and road existed prior
to when these sections were introduced.

Not a result of the owners actions

Signature



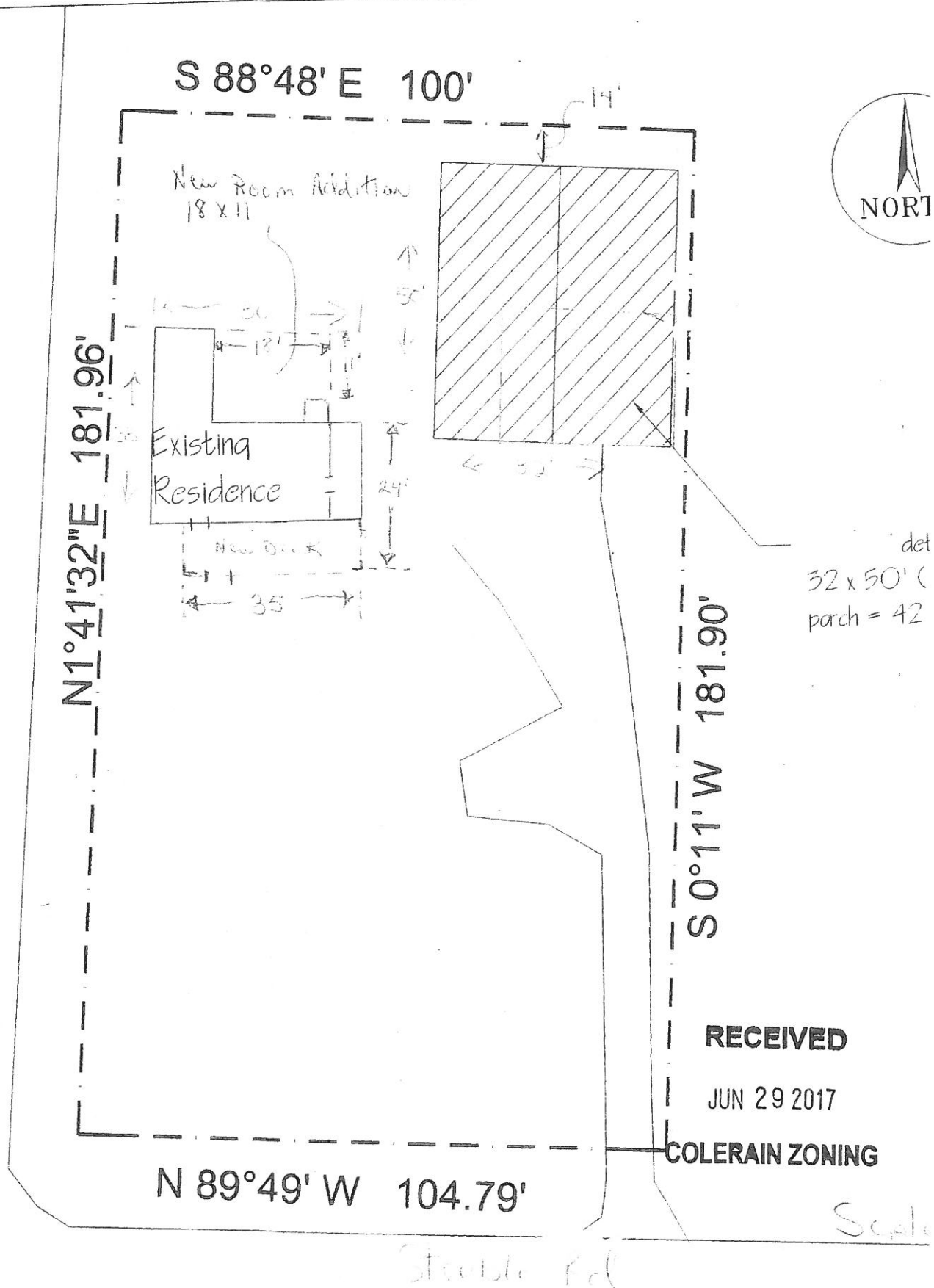
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JUN 29 2017

COLERAIN ZONING

SITE PLAN

Pottinger Road





Sign in



Image Landsat / Copernicus

Google Earth

39°15'49.55"N 84°35'00.77"W elev 911 ft eye alt 1195 ft
8:19 PM 6/26/2017

1994

Tour Guide





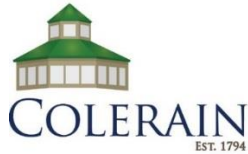
Google Earth

39°15'51.94" N 84°34'56.50" W elev 957 ft eyealt 1195 ft
8:28 PM 6/26/2017

© 2017 Google

1994

Tour Guide



Staff Report:	Board of Zoning Appeals
Case#	BZA2017-16
Variance Request:	Change of Non-Conforming Use
Location:	3354 W. Galbraith Rd.
Meeting Date:	August 23, 2017
Prepared by:	Marty Kohler Senior Planner

Applicant Darrell Stahley representing property owner Stahley Family Limited Partnership has requested a change of a non-conforming use from Storage to a Machine Shop Business in a R-7 Multi-Family Residential Zone where such use is not permitted.

Case History:

The subject property contains about 18.7 acres and is located on the north side of W. Galbraith Rd. between Georgianna Drive and Chesswood Drive. The property is accessed by a private street being Stahley Drive and contains a mobile home park for about 115 units. The property also contains a convenience store (Galbraith Food Mart) with beverage drive-through (Kwik-Kold) and maintenance building. All uses on the property are considered to be non-conforming to the current Zoning Resolution.

The subject building is located towards the south end of the property directly behind the Colerain Fire Station. Three sides of the building are surrounded by the applicant's mobile home park. The 6,800 square foot building was constructed in about 1947 and has been used as a beverage bottling plant, a maintenance facility for the mobile home park, a gymnastics instruction center and storage. A 2,000 square foot portion of the building is currently used as a social center for the mobile home park and is proposed to remain the same. A non-conforming certificate was issued for the mobile home park, convenience store and storage-warehouse operation on February 14, 1962. There is no record of a non-conforming certificate for the gymnastics instruction operation.

Current Proposal

The proposal is to convert the 4,800 square foot portion of the building from storage/warehouse to machine shop. This same request was made by the property owner in 2002 and was granted by the Board of Zoning Appeals subject to several conditions. The machine shop use was never established in the building and the non-conformity expired after two years. The previous approval conditions were as follows:

1. That the use be limited to the proposed use and that any change in the use not be undertaken without the consent of the Colerain Township Board of Zoning Appeals.
2. That the use complies with the regulations and recommendations of the applicable development review agencies.
3. That outdoor storage be prohibited.

4. That hours of operation be from 6:00 am to 6:00 pm, Monday through Friday, and weekends on emergency basis only.

Zoning Regulations:

Generally, the strategy with non-conforming uses is to encourage their termination and to redevelop the property for the purpose in which it is zoned. Such uses can remain so long as they do not become vacant for a prolonged period of time. The mobile home park which occupies the majority of the property would not be allowed in any of Colerain's zoning districts. The convenience store and drive-through would be permitted in the B -1, B-2, B-3 and O-1 zones. The current use of the building as warehouse/storage would be permitted in the B-3 and I-1 zones. The proposed use of the building as a machine shop would be permitted in the B-3 and I-1 zones. Under the zoning code that existing when the previous approval was granted for the machine shop a non-conforming use may be changed to another non-conforming use of the same or more restrictive classification so long as no structural modifications were made.

The portion of the building to be used as a machine shop would require 1.5 parking spaces per 1,000 square feet of building area or 8 parking spaces. There are 14 spaces provided not including the paved area on the west side of the building which could be used as a loading area.

Staff Findings:

1. The non-conforming use change requested is substantial since machine shops tends to be a more intensive use than storage and possibly gymnastics instruction.
2. The granting of the non-conforming certificate would not be likely to have a more adverse impact on the surrounding neighborhood than the previous business since apparently no complaints were received regarding that business.
3. The property in question would likely yield a reasonable return without the change of non-conforming use, however there is some practical difficulty using the property for the single family purpose for which it is zoned.
4. The building size is not being increased, however, the volume of business may be expected to increase.
5. Approval of the change would not affect the delivery of government services.
6. By taking into consideration the benefit to the applicant if the change is granted, as weighed against the potential detriment to the health, safety and welfare of the neighborhood and broader community, staff finds that substantial justice would be done by allowing the change of use.

Staff Recommendation: APPROVAL OF THE CHANGE OF THE NON-CONFORMING USE SUBJECT TO THE FOLLOWING CONDITIONS:

1. That the use be limited to the proposed use and that any change in the use not be undertaken without the consent of the Colerain Township Board of Zoning Appeals.
2. That the use complies with the regulations and recommendations of the applicable development review agencies.
3. That outdoor storage be prohibited.
4. That hours of operation be from 6:00 am to 6:00 pm, Monday through Friday, and weekends on emergency basis only.
5. That noise generated from the operations not be audible from adjacent properties.

**APPLICATION FOR SUBSTITUTION OF A NONCONFORMING USE
COLERAIN TOWNSHIP BOARD OF ZONING APPEALS**

4200 Springdale Rd
Cincinnati, Ohio 45251
(513) 385-7505; Fax (513) 245-6503

Application number: BZA 2017-16

Owner: Stahley Family Limited Partnership Applicant: Darrell Stahley
Property Address: 8224 Stahley Dr.
City: Cincinnati State/Zip: Ohio, 45239
Applicant Address: 5410 Sheits Road
City Cincinnati State/Zip: Ohio, 45252
Phone: 513-741-4028
Auditor's Book-Page-Parcel Number: 510 -- 0090 -- 0030-00
Zoning Classification: R-7 Current Use: Storage and Equipment
Proposed Use: Machine Shop

Required Documents (8 copies of each document unless noted):

- ☐ Signed, typewritten *Justification of Substitution* statement addressing the items listed on the reverse of this page.
- ☐ Site Plan (surveyor/engineer's seal may be required).
- ☐ Landscaping Plan.
- ☐ Lighting Plan including Photometric Detail.
- ☐ Building Plans and Elevations, if any changes are proposed.
- ☐ Signage Details (wall and ground), if proposed.
- ☐ Names and addresses of adjacent Property Owners (use County Auditor's records) – **2 copies.**
- ☐ Plat showing adjacent Property Owners – **2 copies.**
- ☐ Fees.

RECEIVED

JUL 17 2017

COLERAIN ZONING

Office use only: Application Fee: _____

Legal Notice: _____

Mailing/adjacent Property Owners: _____

Total Amount Paid: _____

***An application will not be accepted until and unless all of the above requirements are met.
Failure to appear at the scheduled public hearing may result in dismissal of the application.***

Signature of Property Owner (required): _____

Signature of Applicant (if not the Owner): _____

(over)

April 5, 2002

Colerain Township
Zoning Commission
Board of Zoning Appeals
4200 Springdale Road
Cincinnati, Ohio 45251-1419

Attn: Otis Spriggs
Zoning Administrator

Ref: Stahley Family Limited Partnership
8223 Stahley Drive
Cincinnati, Ohio 45239-3955

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JUL 17 2017

COLERAIN ZONING

Dear Mr. Spriggs:

A non-conforming use transfer is requested for the Stahley Family Limited Partnership property who owns and manages a mobile home community that includes a recreation hall, an existing warehouse building, a food mart, laundromat, beauty shop and a beverage drive-thru. The Stahley Family Limited Partnership is represented by Elaine (Stahley) Gauck as General Partner.

This property has been owned by the Stahley family since 1946 when a warehouse building was constructed and used for a pop factory under the name of Checker Beverage. In 1956, this site was expanded with the addition of a mobile home park. The existing building was converted for use of the mobile home park with a bath, shower room, and restroom as required at that time for a "trailer park." The remaining portion of the building was used for construction equipment and maintenance for the mobile home park such as backhoe and truck storage. In 1976, the building was remodeled and leased to Cincinnati Gymnastics first by John Thomas and then taken over by Mary Lee Tracy who operated this business to about 1991. Since about 1991, this building has been vacant and used for miscellaneous storage for the family business. This property is listed by The Hamilton County Auditors Office as 3380 West Galbraith Road.

This property was developed prior to zoning in Hamilton County and was issued a non conforming use certificate on February 14, 1962 which followed the enactment of county zoning on November 16, 1961 and was granted this use for a residence, mobile home park, beer sales and abandon storage warehouse. This non-conforming use is still valid as of this date. On January 22, 1972 an addition was added to the east side of this building for an assembly hall for residences of the mobile home park. This was granted by the Hamilton County Zoning Commission and identified as appeal #38-74.

This property is presently zoned "D" Multi Family Residence District.

The Stahley family wishes to modify the use of the existing one-story metal and block building referenced above from a warehouse storage building to a small parts shop which will be owned and operated by the same family. There will be no alterations to the building or parking in order for this change of use to occur. This building is centrally located on the property east and west and north by the Mobile Home Park and recreation room and to the south by the Colerain Township Fire Department.

Would you please place this request on the April 24, 2002 Board of Zoning Appeals agenda for a non conforming use transfer for the existing building shaded on our plat dated 04-04-02 from a warehouse storage to a machine shop. This type of transfer is allowed under Article 32.0 of the Colerain Township Zoning Code.

If there are any questions or if I can be of further assistance, please call me at your earliest convenience.

Sincerely,

ABERCROMBIE & ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read 'R. Thomas Abercrombie', written over a horizontal line.

R. Thomas Abercrombie, P.E.

RTA:ash

Attachment

Certificate of Non-Conformance

COLERAIN TOWNSHIP
PLANNING & ZONING
4200 SPRINGDALE RD
CINCINNATI, OH 45251

(513) 385-7505

Certificate Number: NC2016002

ADDRESS: **3354 GALBRAITH RD**

PARCEL NO.: **5100090003000**

ZONING: **R-7**

BZA CASE NO.: **2002-0010**

ISSUED TO: **STAHLEY FAMILY LMTDPARTNERSHIP**
8223 STAHLEY DR
CINCINNATI OH 45239

PERMIT DATE: **06/27/2017**

FEE: **100.00**

This is to certify that, on the above date, the Zoning Administrator of Colerain Township issued this certificate to the applicant for the subject property and the non-conformity listed below:

Warehouse-Storage

The above described condition is not in conformance with the Zoning Resolution of Colerain Township.

Such non-conformity is permitted within the Zoning Resolution if such non-conformity does in all other respects conform to the Resolutions of Colerain Township and the laws of the State of .

This permit must be presented to the Zoning Administrator if changes in the non-conformity are desired as provided in the Zoning Resolution.

APPROVED BY:

DATE:



Zoning Inspector

06/27/2017

