



1368 Research Park Dr  
Beavercreek, Ohio

BEAVERCREEK BOARD OF ZONING APPEALS  
Regular Meeting – November 12, 2025, 6:00 p.m.  
*Council Chambers*

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. APPROVAL OF MINUTES
  - A. July 9, 2025
- V. PUBLIC HEARINGS
  - A. V-25-3, Ashley & Oswaldo Delacruz, 2571 Murwood Court
  - B. V-25-4, Hailey & Andrew Moeggenburg, 1680 N. Laddie Court
- VI. ADJOURNMENT

BEAVERCREEK BOARD OF ZONING APPEALS  
REGULAR MEETING, July 9, 2025, 6:00 PM

PRESENT: Ms. Barhorst, Mr. Essman, Mr. Rader, Ms. Vest

ABSENT: Mr. Roach

Chairman Essman called the meeting to order followed by roll call.

Mr. Rader MOVED to excuse Mr. Roach from the meeting, seconded by Ms. Vest. Motion PASSED by majority voice vote.

APPROVAL OF AGENDA

Ms. Barhorst MOVED approval of the agenda, seconded by Mr. Rader. Motion PASSED by majority voice vote.

MINUTES

Ms. Vest MOVED approval of the June 11, 2025 Regular Meeting minutes, seconded by Mr. Rader. Motion PASSED by majority voice vote.

Ms. Vest MOVED approval of the June 11, 2025 Work Session minutes, seconded by Mr. Rader. Motion PASSED by majority voice vote.

PUBLIC HEARING

BZA-25-1, Sean & Andrea Dailey

Clerk Gillaugh read the notice of public hearing on an application filed by Sean & Andrea Dailey, 2187 Van Oss Drive, Beavercreek, OH 45431 appealing a Notice of Violation issued by the Code Enforcement Officer. The Notice of Violation referenced a violation to Chapter 158.118 of the Beavercreek Zoning Code. The property is located on the west side of Van Oss Drive, three lots south of the intersection of Kemp Road and Van Oss Drive further described as Book 4, Page 15, Parcel 69 on the Greene County Property Tax Atlas.

Mr. Funk summarized the staff report dated July 2, 2025, which stated the applicant is appealing the Notice of Violation to bring a driveway into compliance pursuant to Chapter 158.118. He discussed the location of the property, and showed a video of the site. Mr. Funk stated on April 17, 2025, the City received a complaint that the applicant had constructed a driveway that was not compliant with our Code. He explained the Code Enforcement Officer went out on April 18, 2025, and determined the driveway did not meet the Code. He reviewed the timeline of the violations, and when the appeal was filed.

Mr. Funk read Chapter 158.118 (D) of the Beavercreek Zoning Code, and said the driveway was expanded on the property. He recited what the definition was of Improved Surface in Chapter 158.003. Mr. Funk explained in his opinion the applicant didn't pave their driveway with asphalt concrete, and determined they took asphalt millings and spread them out. Mr. Funk discussed what asphalt concrete and milled asphalt was and what their characteristics are. He showed a photo of the driveway, and explained staff views that as similar to gravel and is not a paved asphalt concrete surface nor is not permanent surface or a continuous hard surface.

Mr. Funk stated in this case the Board has two options. He said the first is to approve the applicant's appeal finding it is valid and staff's decision was not in accordance with Chapter 158.118(D) of the Zoning Code, which would mean the applicant would not be required to take corrective action. Mr. Funk explained the second option would be to deny the applicant's appeal finding staff's option lawful and in accordance with Chapter 158.118(D), which would require the applicant to continue to work with staff to bring the property into compliance.

Sean & Andrea Daily, sworn in, asked for staff to show the video of the property again, and stated that is what their driveway looked like this evening. He presented the Board with a photo of the driveway he had taken, and said he was not sure they correlated with one other but the Board could make their own decision. Mr. Daily said they did receive a violation from Mr. Hutton in April stating that they had used recycled asphalt in their driveway, which he was calling millings. He said he was not sure where Mr. Hutton came up with that, but that is what Mr. Hutton told him it was. Mr. Daily explained he made a follow-up call to Matt Funk, and was told going off of the pictures it looked like asphalt millings. He explained their attorney was then in contact with the City attorney, and stated during that time there was some misunderstanding on how the appeal section goes with the violations. Mr. Daily said the violation notice, does not say how an appeal needs to be filed or what the process was. He stated Mr. Hutton visited his house again, and there was some confusion on Mr. Hutton's part on what violation he was giving him in terms of if it was a continuation violation or a second violation. Mr. Daily explained then they found out they had to file an appeal application and what that process was.

Mr. Daily said Mr. Funk explained what bituminous asphalt is, so he didn't feel he needed to do that. He stated what he has down in his driveway he describes as bituminous asphalt, sole and solely through, so he was not sure where the misinterpretation may be. Mr. Daily explained they remodeled their home, had numerous inspectors on the property, but there was no permit needed for a driveway expansion or an inspection. He discussed what the Code says in Chapter 158.118 and the definition of driveway. Mr. Daily explained as their attorney had said with the City's attorney, if this is how it is to be looked at then the definition of driveway needs to include what is stated in Chapter 158.118(C) and (D). He explained he is still a little torn as to where the confusion is with the asphalt they have in their driveway. Mr. Daily questioned if it is not the asphalt the City wants to see then he questioned why the City has on the roadways. He presented the Board with several photos of the City streets he had taken.

Mr. Daily stated Mr. Funk and Mr. Hutton have both stated their driveway is asphalt millings, but he was not sure what their credentials are in asphalt training. He said he has not seen anything on that, and would like to know where they stand on that or if this is simply their opinion versus his opinion. Mr. Daily did not feel his driveway was an eyesore anymore than what he had seen on a lot of City streets. He stated no one had physically come out and had a comparison with him or had a trained professional from the asphalt industry discuss the installation process other than what they just saw on a slide show. Mr. Daily said there is no where in the Code where said product

being pavers, concrete or bituminous asphalt needs to be installed, and there is no permits or inspections required. He believed what they installed is more than sufficient for their standards, yet after the fact, the City wants to come to them after and say that it is not. Mr. Daily stated it makes it very tough on their end financially, physically, and emotionally to have to think they may have to redo all of this because someone may not like that. He explained just because someone may not like it mean that is it wrong according to how we all interpret the Code.

In public input, Joe Kindell, 2155 Van Oss Drive, stated the driveway looked fine. He said he lived three doors down, and Mr. Daily had done a lot of work to the house. Mr. Kindell saw nothing wrong with it, and stated the house is beautiful and the City needed to cut the man some slack.

Marcus Radat, 2184 Van Oss Drive, stated he had lived there since 1996. He said the applicants have the nicest house on the street, and did not understand why someone would complain about the driveway. He felt everything was top notch.

Cassi Owens, 2166 Van Oss Drive, stated they live a couple doors down and don't see any problems. She said the Dailey's keep their house very nice. She said there are houses on the street that are eyesores, but this driveway is not one of them.

There being no further public input, the public hearing was closed.

Ms. Barhorst asked if a binder was used in the construction of the driveway or if the driveway was made of loose particles. Mr. Daily asked her to define binder. Ms. Barhorst asked if the driveway was solid like a roadway would be. Mr. Daily said absolutely, and it is bound together solid. Ms. Barhorst asked what they are bound together by. Mr. Daily said bituminous asphalt is the product that is on his driveway bound together. Counsel Lounsbury said for clarification can you reach down and grab handfuls of it and throw it off. Mr. Daily said no, and it is as hard of product as some of the streets. Ms. Barhorst asked when the driveway was finished. Mr. Daily believed it was the end of May or the beginning of June.

Mr. Rader said when going through this process with violations he questioned if it was normally in response to a complaint. Counsel Lounsbury stated that was correct. Mr. Rader questioned what the City is allowed to ask for as far as proof goes what was used. Mr. Funk stated they do a visual inspection. He said asphalt concrete is a manufactured product from a plant that is heated and paved on, which is different than the milled material that is dumped then spread out. He said according to the applicant it was done over a period of time, which sounds like they did not hire a contractor that came out with hot mix asphalt and paved their driveway but was a loose material that was dumped on their driveway, spread out, and packed down. Mr. Funk explained those are two distinctly different products. He said with reasonable confidence this is not a manufactured material that was hot from a plant and paved on.

Counsel Lounsbury thought there is no question an improved surface was acquired to widen the driveway. He said the Board is bound by what the definition of what an improved surface is in the Zoning Code. Counsel Lounsbury read the definition of improved surface, and stated this appeal comes down to the question if what they put on their driveway meets that definition.

Ms. Vest asked where the applicant could access that definition. Mr. Funk explained it is in the definition section of the Zoning Code. He stated the applicant said it should be highlighted, but there are many different terms in the Zoning Code that are not highlighted but are still defined. Counsel Lounsbury explained in the definition session they are all bold and capitals, but then every other time it appears in the Zoning Code it is not. He stated that is how the ORC, Ohio Revised Code, and the OAC, Ohio Administrative Code both are too.

Mr. Essman asked if the applicant increased the driveway as part of an improvement to the home. Mr. Daily explained the garage was added, so they had to increase the size of the driveway to lead to the garage. He said Mr. Funk keeps flipping the Powerpoint to the photo of the driveway, but that was not an updated photo of the driveway. Mr. Essman questioned if Mr. Funk believed the intent of the Code was to have an impervious surface. Mr. Funk said any of the materials listed in the Code would be considered an impervious surface.

Mr. Rader questioned what were implications of the decision if they do not agree with the City. Counsel Lounsbury said if they say this is not a violation and asphalt millings are a permanent and continuance hard surface constructed of bituminous/asphalt concrete that means anyone who wants to expand their driveway could use crushed up asphalt. He said more than likely it means they could also use crushed up cement.

Mr. Essman asked when Mr. Funk last inspected the driveway. Mr. Funk explained he did the drive by video late last week or the beginning of this week. Mr. Essman asked the applicant if anything changed in the last two weeks. Mr. Daily said no. Mr. Essman questioned if the applicant considered this a hard surface. Mr. Daily said yes. Mr. Essman asked what made it a hard surface, and questioned if it was water resistant. Mr. Daily said yes. Mr. Essman asked if the applicant could explain how the driveway was constructed. Mr. Daily said he was not sure what he was asking. Mr. Essman said they brought in three inches of crushed limestone that was rolled, then they brought in bituminous asphalt that was laid down and rolled. Mr. Daily stated absolutely. Mr. Essman questioned if there were any other components that would cause the millings that have been introduced here. Mr. Daily said they keep referring to this as millings, but no one has been able to come out and say that those are millings. Mr. Essman questioned what product did he use. Mr. Daily stated bituminous asphalt. He said under the definition it does not state if it comes out hot or cold, and the City uses cold repair on their roads that is also found as bituminous asphalt. Mr. Essman said it is the applicant's contention that it is bituminous asphalt that was used and it was a cold mix rather than a hot mix. Mr. Daily said if that is how he would like to imply it, then yes. Mr. Essman explained he didn't mean to imply anything, and

## BEAVERCREEK BOARD OF ZONING APPEALS, 7/9/25

was asking the applicant for facts. Mr. Daily stated he was not sure what he could answer that because what is he calling hot and cold. Counsel Lounsbury explained Jeff Moorman, City Engineer, was present if he had questions about asphalt millings.

Mr. Essman asked what the difference was between cold and hot patch. Jeff Moorman, Public Service Director and City Engineer, explained the asphalt plants are not open in winter, so if there is a pot hole in the middle of winter, it is filled with cold mix to temporarily fix the pot hole. He said once the asphalt plants reopen, they remove the cold mix and replace it with a hot mix patch. Mr. Moorman stated they maintain 252 centerline miles in the City, so he was sure if they were all drove there would be some spots that would need to be repaired. He explained he did not see the examples the Board received tonight, but if those locations are shared with him he would get them addressed. Mr. Moorman stated looking at the picture the material that was placed he could tell there was a granular coarseness to it. He said he has done a lot with asphalt over the years, about 30 years of experience in public improvements. He said in his opinion it looked like asphalt millings or recycled asphalt. Mr. Moorman stated as Mr. Funk was describing it is a left over product when they mill out a parking lot or roadway, and is the grindings from the solid surface that used to be there.

Mr. Essman asked Mr. Moorman from his experience if this was an impervious surface that is resist to potholes etc. Mr. Moorman said it is not in his experience, and he would classify this as a substitute for gravel where it can be ground up, rolled out and compacted. He explained it still functions as a gravel driveway. Mr. Essman questioned in his expert opinion this did not meet the Code. Mr. Moorman stated in his opinion it does not, and it falls short of the definition of an improved surface.

Ms. Barhorst asked if Mr. Moorman believed the driveway surface met the definition of continuance. Mr. Moorman said he did not think so.

Ms. Vest asked when photo was taken. Mr. Lounsbury stated the question before them was the date that the violation were given, so if they had gotten rid of it and completely paved it between the violation and now they still would have caused a violation. He said he doubts the City would have pressed forward with anything, but the question before the Board was if there was a violation at the time.

Ms. Vest MOVED to deny the administrative appeal, seconded by Ms. Barhorst. Motion PASSED by a roll call vote of 4-0.

### ADJOURNMENT

Mr. Rader MOVED adjournment at 6:47 p.m., seconded by Ms. Barhorst. Motion PASSED by majority voice vote.

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Melissa Gillaugh  
Deputy Clerk



# Beavercreek PLANNING & DEVELOPMENT

1368 Research Park Drive, Beavercreek, Ohio, 45432

## BOARD OF ZONING APPEALS STAFF REPORT

CASE: V-25-3

DATE: November 5, 2025

APPLICANT: Ashley and Oswaldo Delacruz  
2571 Murwood Ct  
Dayton, Ohio 45431

### NATURE OF REQUEST:

The applicant is requesting a variance from §158.104 (A) to construct an accessory structure within the front yard.

### FINDINGS:

1. The property under discussion is located at 2571 Murwood Court, within Grange View Acres, Section 4.
2. The property has a zoning designation of R-1A, Single Family Residential.
3. The property is bordered by I-675 to the west and single-family residential properties to the north, east and south.
4. The applicant is requesting permission to construct a 200 square foot accessory structure (shed) in the front yard.
5. The Zoning Code states that *"In any residential district, except as provided under divisions (B), (F), (G) and (H) of this section, no structure or appurtenances other than a fence shall be erected within the front yard or side yard."*
6. The applicant's house is located 26 feet from the north property line and the rear yard contains a large swale.

### DISCUSSION:

The applicant came before the Board of Zoning Appeals on November 7, 2023 (Case #: V-23-9) and was granted a variance for a shed to be located in the front yard. However, the applicant failed to commence construction during the 1 year period of validity for the variance. Since the variance has expired, the applicant is once again requesting a variance from the Board of Zoning Appeals. The major difference between the two requests is that the original request in 2023 was for a 632 square foot accessory structure and the applicant is now requesting a variance



for a 200 square foot accessory structure in the front yard.

The property is a unique and kite shaped parcel located at the end of the cul-de-sac on Murwood Drive. The parcel is located within the Grange View Acres subdivision.

During the Memorial Day Tornado, in 2019, the home that was located on the parcel was destroyed. In 2020, the property was purchased by the applicant and a new house was constructed north of the original house. There is a swale that runs south on the west side of the property. The grade drops about 10 feet along the swale behind the house.

The applicant is requesting a variance to build a 200 square foot shed in the approximate location of the previous house. Despite the new house facing east, the area the applicant would like to locate the shed, by definition, is in the front yard. The proposed shed would be located 204 feet from the front property line and 72 feet from the nearest side property line. Additionally, the shed will still be located behind the neighboring houses.

Staff has reviewed the variance request and is providing the following analysis as it pertains to the approval criteria.

Per 158.172 (H)(5)(a), no variance of the strict application of this Zoning Code shall be granted by the Board of Zoning Appeals until and unless the Board finds the following:

<i>Criteria</i>	<i>Staff Analysis</i>
<b>1.</b> <i>Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.</i>	<b>Not Satisfied</b> The lack of a variance would not prohibit the applicant from practically utilizing the property. The property would be able to yield a reasonable return and there can be beneficial use of the property without the variance.
<b>2.</b> <i>Whether the variance is substantial.</i>	<b>Not Satisfied</b> The request is substantial. The shed will be substantially closer to the roadway than the house. However, given the terrain on the lot, the shed cannot feasibly be located behind the house.
<b>3.</b> <i>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.</i>	<b>Satisfied</b> Staff does not feel that the essential character of the neighborhood would be substantially altered or that adjoining properties would suffer a substantial detriment as a result of the variance. The shed would still be located behind the neighboring houses on either side.
<b>4.</b> <i>Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage).</i>	<b>Satisfied</b> The granting of the variances would not adversely affect the delivery of governmental services.
<b>5.</b> <i>Whether the property owner purchased the property with knowledge of the zoning restriction(s) in place at the time he or she purchased the property.</i>	<b>Not Satisfied</b> It was the applicant's choice to build the house so far back on the parcel knowing the terrain issues related to the property.



<p><b>6. <i>Whether the property owner's predicament feasibly can be obviated through some method other than a variance.</i></b></p>	<p><b>Satisfied</b> Due to the topography of the parcel and unique circumstances surrounding the property, staff feels it is reasonable to grant the variance to build the shed in the proposed location.</p>
<p><b>7. <i>Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.</i></b></p>	<p><b>Satisfied</b> While the spirit and intent of the zoning requirements will not be met because the shed will be located closer to the road than the house, the shed will still be behind the neighboring houses. Staff feels that there would be substantial justice served by granting the variance.</p>

Staff finds that the strict application of §158.104 (A) does result in a practical difficulty, not economic in nature, which would deprive the owner of the reasonable use of the land or building involved and does adequately satisfy the requirements for approval per §158.172 (H)(5)(a) of the City of Beavercreek Zoning Code.

#### **RECOMMENDATION:**

Staff recommends that the Board of Zoning Appeals find that:

1. The reasons set forth in the application are valid and do justify the granting of the requested variance, and
2. The variance proposal is in accord with §158.172 (H)(5)(a).

Staff further recommends that the Board of Zoning Appeals adopt the attached resolution approving the variance from §158.104 (A) to construct a accessory structure in the front yard.

**RESOLUTION  
BOARD OF ZONING APPEALS  
CASE NO. V-25-3**

WHEREAS, Ashley and Oswaldo Delacruz have made application for a variance from the strict application of the requirements of the City of Beavercreek Zoning Code for the property located at 2571 Murwood Court, Parcel ID: B42000100040011800; and

WHEREAS, the applicant is requesting permission to construct a 200 square foot shed in the front yard, 204 feet from the front property line; and

WHEREAS, a public hearing was held on November 12, 2025, at which time all persons were given opportunity to comment on the application; and

WHEREAS, the Board of Zoning Appeals finds that the reasons set forth in the application are valid and do justify the granting of the variance; and

WHEREAS, the Board of Zoning Appeals finds that Zoning Code Section §158.172 (H)(5)(a) has been fully satisfied.

NOW therefore the Board of Zoning Appeals orders that:

A variance from Zoning Code section 158.104 (A) to construct an accessory structure within the front yard, be approved.

Action by the Board of Zoning Appeals:

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Chairman

# CITY OF BEAVERCREEK APPLICATION FOR VARIANCE

Date 09-21-2025

Application No. V-25-3

Variance Address 2571 murwood ct, Dayton OH 45431

Name of Applicant Ashley and Oswaldo Delacruz

Applicant's Mailing Address 2571 murwood ct, Dayton OH 45431

Applicant's Phone Number 551-482-1189

Applicant's Email Address oswaldo.e.delacruz@gmail.com

Name of Contractor Self

Contractor's Address \_\_\_\_\_

Contractor's Phone Number \_\_\_\_\_

1. Location Description:

Subdivision Name GRANGE VIEW Section No. 4

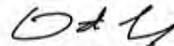
Lot No. 176 Zoning District Beavercreek Parcel ID B42000 1 00 0 4 00 1 1 8 00

2. Nature of Variance Request: Build a shed on teh side of the house instead of rear.

The rear is not buildable.

In addition, all items listed in the "Special Instructions to Applicant" must be submitted in order for this application to be processed.

I certify that the information contained in this application and its supplements are true and correct.



Applicant's Signature

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## FOR OFFICIAL USE ONLY

Date Filed \_\_\_\_\_

Fee Paid \_\_\_\_\_

Received by \_\_\_\_\_

## Justification of Variance

- A. The space behind the house is not suitable to build on. The area behind the house has a significant grade making the land uneven and susceptible to major water runoff from the highway exit behind our property line. There is also dense vegetation in that area. We would like to build a shed on more suitable ground outside the zoning area due to the issues mentioned. (See Figure 1)
- B. We would like to request a variance to be granted to build a shed on the side of the house which is approximately 204 feet from the street. (See Figure 2)
- C. We will build our shed according to the city ordinance. Our home is 5,700 square feet (including the basement). Our shed maximum size could be 972 square feet, which will not exceed 50% of our main home square footage. The shed will not be taller than 16 feet. The shed closest property line is 72 feet.
- D. The granting of the variance will not be injurious to surrounding properties or the neighborhood. The shed will be built deep into our property, which exceeds the distance of many other properties' main building from the curb. Our goal is to not be a nuisance to the neighborhood or detrimental to the public welfare.
- E. The granting of the variance will not be a deleterious change in the character of the community.
- F. The shed will be located from main neighbor's buildings as follow:
  - 140 feet from Neighbor A
  - 173 feet from Neighbor B
  - 204 feet from Neighbor C
  - 181 feet from Neighbor D

There is vegetation between each neighbor. The shed will not infringe upon the rights or the quiet enjoyment of the adjacent properties, will not diminish property values, and will not endanger public safety or be a public nuisance.

- G. We have had Mr. Matthew Funk pay a visit to our property to visually show why it would be hard to build zoning codes. There are no other reasonable alternatives within the zoning code, that is why we are requesting a variance.
- H. The granting of the variance is not to gain an economic benefit, but to improve our quality of life.
- I. List of owners within 500 feet- buffer area.
  - **PARCEL ID:**    **B42000100040007100**  
OWNER(S):    TRAVIS FRED M & KRISTEN M
  - **PARCEL ID:**    **B42000100040007000**  
OWNER(S):    WISSMAN DALE J



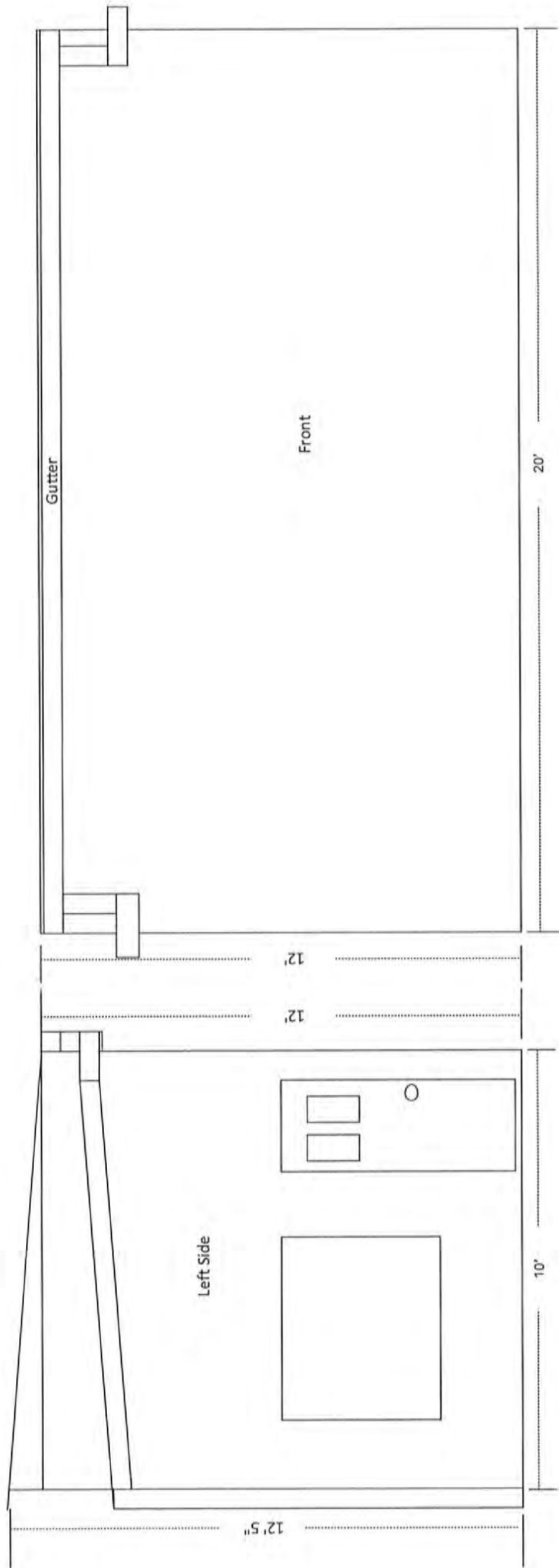
Figure 1





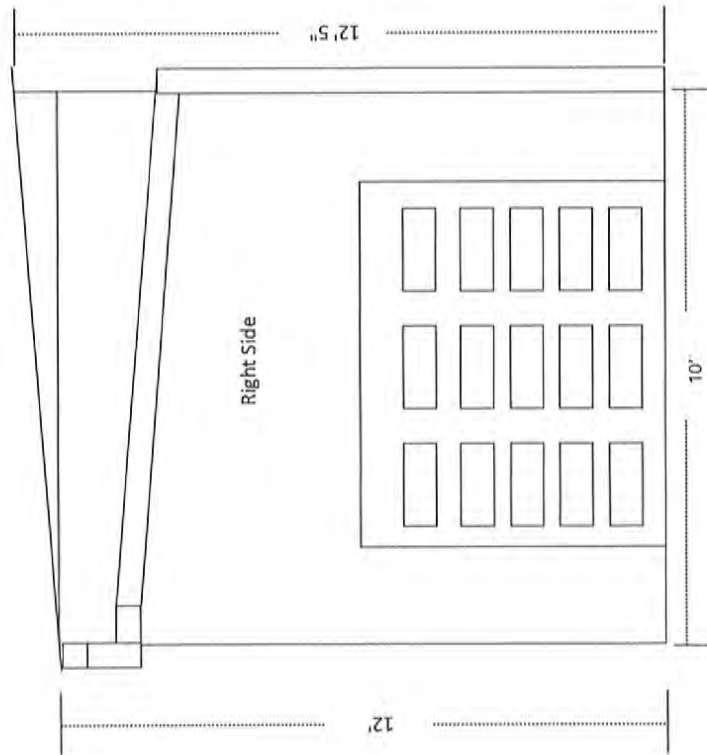
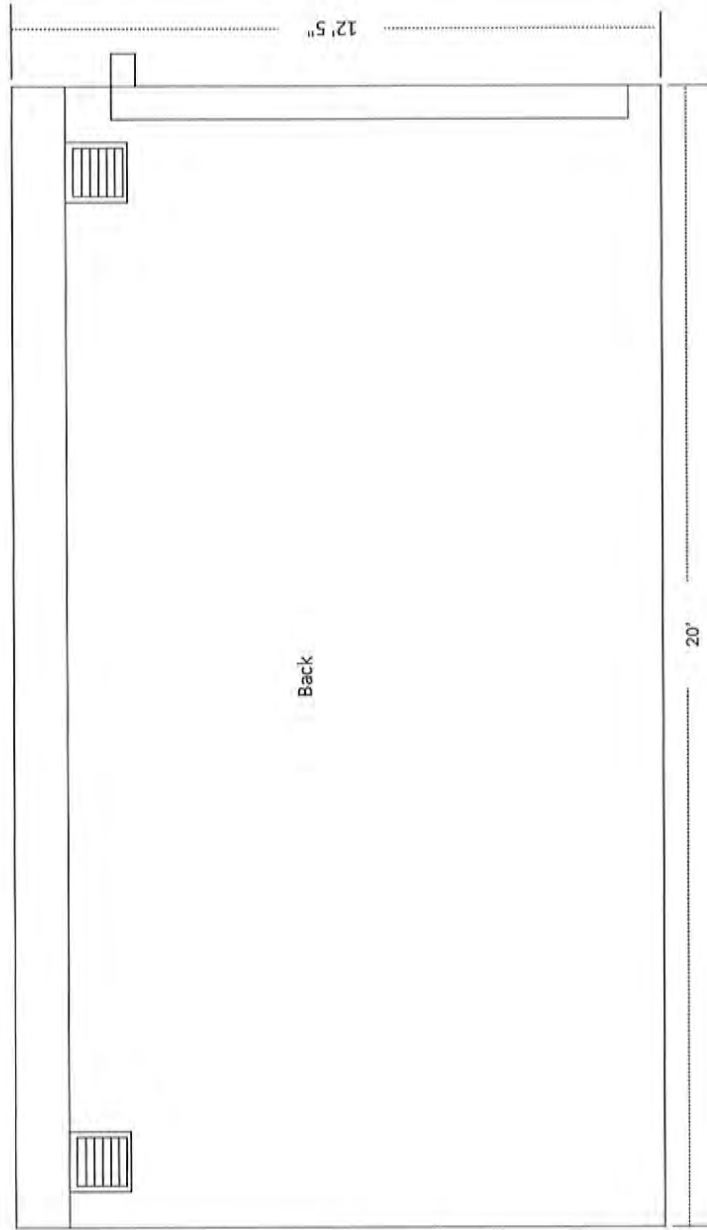
2 WORKING DAYS

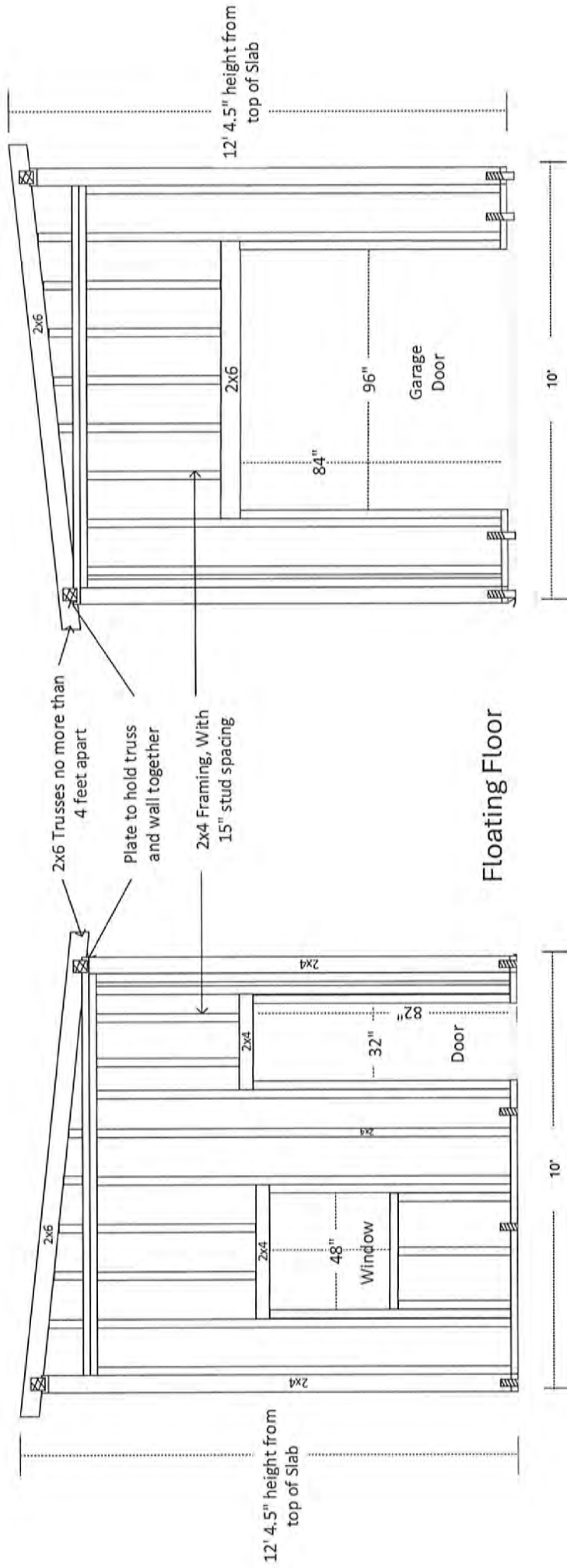


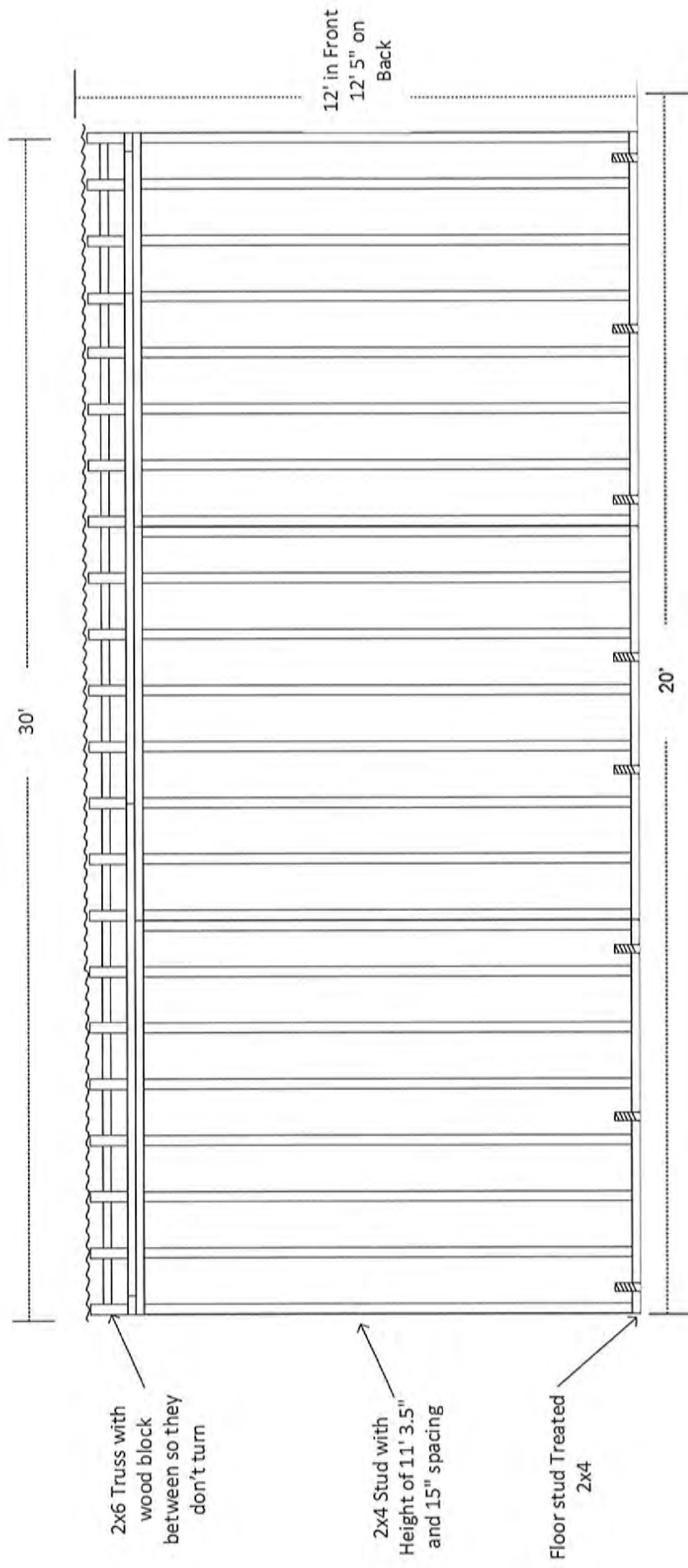


Front and Left  
Elevation

# Back and Right Elevation











Corrugated Polycarbonate Roof  
Panel in Solar Gray will be  
installed



# Beavercreek

## PLANNING & DEVELOPMENT

1368 Research Park Drive, Beavercreek, Ohio, 45432

### BOARD OF ZONING APPEALS STAFF REPORT

CASE: V-25-4

DATE: November 5, 2025

APPLICANT: Hailey & Andrew Moeggenburg  
1680 North Laddie Court  
Beavercreek, Ohio 45432

#### NATURE OF REQUEST:

The applicant is requesting a variance from §158.105 (A) of the City of Beavercreek Zoning Code to allow a 6-foot-high fence to remain in the required front yard along Hanes Road on a double frontage lot in in a R-1A District.

#### FINDINGS:

1. The property under discussion is located at 1680 North Laddie Court, within Section 1 of Edinburgh Place.
2. The property has a zoning designation of R-1A, One-Family Residential District.
3. The property is a double frontage lot that fronts both North Laddie Court and Hanes Road.
4. On September 15, 2025, the City received a complaint about a newly constructed 6-foot wood board fence. It was determined with that fence was built without obtaining a zoning permit and located in the required front yard.
5. The applicant constructed a 6-foot high wood board fence in the required front yard on the east side of the house that extends to the front property line along Hanes Road.
6. §158.105 (A) of the City of Beavercreek Zoning Code prohibits fences that exceed 48 inches from being located within the required front yard. There is an exception for double frontage lots that states "fences exceeding 48 inches (but no more than 6 feet) in height may encroach a maximum of 20 feet into the defined setback of the required front yard that is situated between a major public roadway (such as an arterial or collector) and the rear elevation of the principal structure."

#### DISCUSSION:

The subject property is located on North Laddie Court and fronts both North Laddie Court and Hanes Road. Because the property abuts two roads, it is considered a



double frontage lot and has two front yards.

The Zoning Code prohibits fences over 48 inches from being located in the required front yard, except in the case of double frontage lots. A double frontage lot is allowed to have a fence over 48 inches encroach a maximum of 20 feet into the required front yard that is situated between a major public roadway and the rear elevation of the principal structure.

On September 15, 2025, the City received a complaint concerning the newly constructed fence. Upon investigation it was determined that the applicant constructed a 6-foot wooden privacy fence that extended to the front property line on Hanes Road, replacing a smaller picket fence. Additionally, the fence was built without first obtaining a zoning permit.

There are currently 15 properties within this section of Hanes Road that have multiple front yards, with one fronting Hanes Road. Of those properties, seven properties have compliant fences constructed with permits, four properties do not have fences, three properties (including the applicant's) have illegally constructed fences with no permit and one property was granted a permit for a non-complaint fence. The other two fences that were constructed illegally appear to be older fences and when they are replaced, they will also be required to construct a fence that is in compliance with the Zoning Code. It should also be noted that 1630 S. Laddie Court was denied a similar variance request (Case #: V-21-9) and has since built a compliant fence.

Staff feels that it is important to emphasize the City's effort to offer some flexibility for fencing on double frontage lots while also bringing non-conforming fences into compliance. The Zoning Code was updated in 2023 to allow for fences, up to 48 inches, to be located in the required front yard. Additionally, allowances were made for a 20 foot encroachment into the required front yard for fences, up to 6 feet in height, on double frontage lots. These updates to the Code were a result of an increased awareness by staff for need for flexibility of fences in the required front yard and also discussions with the Board of Zoning Appeals.

The distance from the applicant's house to the front property line on Hanes Road is approximately 103 feet. It is only the last 20 feet to the Hanes Road front property line that would require a fence that is 48 inches in height or less. The remaining 83 feet can be enclosed by a 6-foot fence.

Staff has reviewed the variance request and is providing the following analysis as it pertains to the approval criteria.

Per 158.172 (H)(5)(a), the factors to be considered when determining whether a property owner has encountered practical difficulties in the use of his or her property include, but are not limited to the following:

<i>Criteria</i>	<i>Staff Analysis</i>
<b>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.</b>	<b>Not Satisfied</b> The denial of the variance request would not prevent the applicant from yielding a reasonable return or deny the beneficial use of the property. The applicant can place a fence to the front property line on Hanes Road so long as it does not exceed 48 inches within the last 20 feet to the front property line.
<b>2. Whether the variance is substantial.</b>	<b>Not Satisfied</b> The granting of the variance is substantial. The applicant is requesting a 100% encroachment into



	<p>the required front yard. Fences over 48 inches are prohibited in the required front yard. However, the zoning code was updated in 2023 to provide a provision for fences, up to 6 feet in height, to encroach up to 20 feet (50%) into the 40-foot required front yard setback on double frontage lots. As mentioned in the discussion, the applicant has the ability to enclose 83 feet of the rear yard with a 6-foot fence.</p>
<p>3. <i>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.</i></p>	<p><b>Not Satisfied</b> Staff believes that approving the variance request and allowing the fence to remain on the front property line would work against the City's pursuit of being the non-conforming fences into compliance and continuing to alter the character of the neighborhood.</p>
<p>4. <i>Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage).</i></p>	<p><b>Satisfied</b> The granting of the variance would not adversely affect the delivery of governmental services.</p>
<p>5. <i>Whether the property owner purchased the property with knowledge of the zoning restriction(s) in place at the time he or she purchased the property.</i></p>	<p><b>Not Satisfied</b> While staff is not aware if the applicant was knowledgeable of the zoning restriction at the time they purchased the property, the Zoning Code is publicly available online. Additionally, had the applicant applied for a zoning permit prior to the construction of the fence, staff would have informed them of the zoning restrictions.</p>
<p>6. <i>Whether the property owner's predicament feasibly can be obviated through some method other than a variance.</i></p>	<p><b>Not Satisfied</b> Staff does not believe there is a practical difficulty that would prevent the applicant from constructing a compliant fence. The applicant's plans for the fence simply conflict with the requirements of the Zoning Code.</p>
<p>7. <i>Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.</i></p>	<p><b>Not Satisfied</b> Staff does not believe that the applicants request meets the spirit and intent of the Zoning Code which is to open spaces in required front yards and not allow them to be walled off with tall fences.</p> <p>The Board of Zoning Appeals denied a similar variance request for a property less than 500 feet to the south. Since that time, staff has worked with Planning Commission and City Council to update the fence section of the Zoning Code. These updates provide more flexibility for fencing to property owners with double frontage lots.</p> <p>To grant a variance without a practical difficulty, not economic in nature, would not provide substantial justice but grant a special privilege not afforded to others and simply be an override of the legislative requirements established by Planning Commission and City Council.</p>

Staff finds that the strict application of §158.105 (A) does not result in a practical difficulty, not economic in nature, and does not adequately satisfy the requirements for approval per §158.172 (H)(5)(a) of the City of Beavercreek Zoning Code.

**RECOMMENDATION:**

Staff recommends that the Board of Zoning Appeals find that:

1. The reasons set forth in the application are not valid and do not justify the granting of the requested variances, and
2. The variance proposal is not in accord with §158.172 (H)(5)(a).

Staff further recommends that the Board of Zoning Appeals adopt the attached resolution disapproving the variance request from §158.105 (A) of the City of Beavercreek Zoning Code to allow a 6-foot-high fence to remain in the required front yard along Hanes Road on a double frontage lot in in a R-1A District



**RESOLUTION  
BOARD OF ZONING APPEALS  
CASE NO. V-25-4**

WHEREAS, Hailey & Andrew Moeggenburg has made application for a variance from the strict application of the requirements of the City of Beavercreek Zoning Code for the property located at 1680 N. Laddie Court, Parcel ID: B42000500040017600; and

WHEREAS, the applicant is requesting permission to allow a 6-foot-high fence in the required front yard along Hanes Road on a double frontage lot in a R1-A District; and

WHEREAS, a public hearing was held on November 12, 2025, at which time all persons were given opportunity to comment on the application; and

WHEREAS, the Board of Zoning Appeals finds that the reasons set forth in the application are not valid and do not justify the granting of the variance; and

WHEREAS, the Board of Zoning Appeals finds that Zoning Code Section §158.172 (H)(5)(a) has not been fully satisfied.

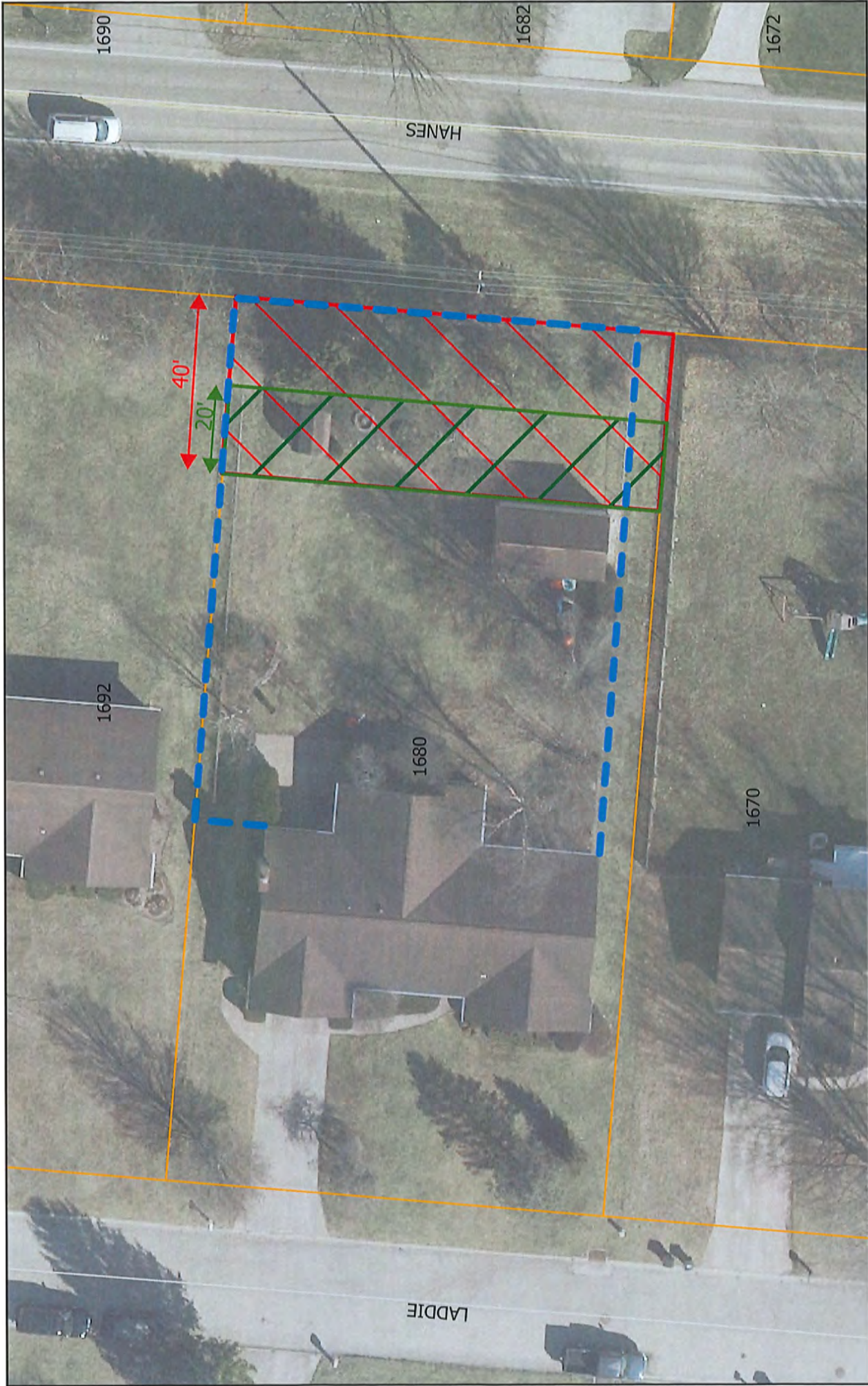
NOW therefore the Board of Zoning Appeals orders that:

A variance to allow 6-foot-high fence to remain in the required front yard along Hanes Road on a double frontage lot in in a R-1A District be denied.

Action By Board of Zoning Appeals

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Chairman



- Allowable Encroachment Area
- Required Front Yard
- Fence

## 1680 N. Laddie Court



# CITY OF BEAVERCREEK APPLICATION FOR VARIANCE

Date 10/16/2025 Application No. V-25-4  
Variance Address 11680 N. Laddie Ct Beaver Creek OH 45432  
Name of Applicant Hailey & Andrew Moeggenberg  
Applicant's Mailing Address 11680 N. Laddie Ct Beaver Creek OH 45432  
Applicant's Phone Number (937) 750-8634  
Applicant's Email Address ajhaileymoeggenberg@gmail.com  
Name of Contractor Troy Copley  
Contractor's Address 1359 E Main St Xenia, OH 45385  
Contractor's Phone Number 937-203-9487

1. Location Description:

Subdivision Name Edinburgh Place Section No. 1  
Lot No. \_\_\_\_\_ Zoning District R1A Parcel ID B42000500040017400

2. Nature of Variance Request: To keep our fence on the property line at the current 6-foot height instead of 48-in max. height in zoning code

In addition, all items listed in the "Special Instructions to Applicant" must be submitted in order for this application to be processed.

I certify that the information contained in this application and its supplements are true and correct.

Hailey Moeggenberg  
Applicant's Signature

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## FOR OFFICIAL USE ONLY

Date Filed 10/17/25 Fee Paid \$200.00 Received by MG

**Andrew & Hailey Moeggenberg**

1680 N Laddie Ct

Beavercreek, OH 45432

(937)750-8634

ajhaileymoeggenberg@gmail.com

**Date:** October 6, 2025

**City of Beavercreek Board of Zoning Appeals**

1368 Research Park Drive

Beavercreek, OH 45432

**Subject: Request for Variance Appeal – Fence Installation at 1680 N Laddie Ct**

Dear Members of the Board,

We are writing to formally request a variance appeal regarding the installation of a fence at our property located at 1680 N Laddie Ct in Beavercreek, Ohio.

Our contractor Troy Copley recently requested a permit for our already installed 6 Foot privacy fence and it was declined due to the fence exceeding the allowable height of 48 inches as outlined in the City of Beavercreek Zoning Code. We respectfully request the Board's reconsideration and approval for a variance based on the following exceptional circumstances:

1. Our property is a double-fronted lot adjacent to the busy throughfare of Hanes Rd. The back of our property has 9 mature trees and a shed making it infeasible to move our fence in 20 feet as stated in the City of Beavercreek Zoning Code. Moving the fence would require us to remove or severely damage the existing trees which currently provide necessary privacy and shade.
2. The 6-foot privacy fence adds necessary safety and security to our family. We know that there are plans drawn up by the City of Beavercreek to widen Hanes Road and add a sidewalk in the easement adjacent to our back yard. This widening will increase foot traffic by our property and the fence is essential to the safety of our young growing family. The fence not only protects our young toddler but also prevents trespassing of pedestrians. The fence also aligns with our family wanting to add an inground pool to our yard in the upcoming spring which requires a minimum fence height of 5-feet.
3. Several nearby properties have similar fence styles or placements, and we believe our proposal maintains consistency with the neighborhood's character. We also have seen other double-fronted properties that have the same fence style as ours so we know it is aesthetically pleasing in other areas of Beavercreek as well-specifically in Spicer Heights adjacent to Kemp Road.



4. The variance, if granted, would not negatively impact neighboring properties, obstruct views, or create safety issues. In fact, it may enhance the property and the surrounding area.

We are committed to complying with all reasonable conditions or modifications that the Board may suggest. We have attached supporting documentation, including a site plan, photographs, and letters from neighbors who support this request.

Thank you for your time and consideration of our appeal. We respectfully request the opportunity to present this request in person at the next Board of Zoning Appeals meeting. Please do not hesitate to contact us at (937)750-8634 or [ajhaileymoeggenberg@gmail.com](mailto:ajhaileymoeggenberg@gmail.com) if further information is needed.

Sincerely,  
Andrew & Hailey Moeggenberg



## Justification of Variance

- A. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

Our home was built in the mid-1980s, along with the replaced chain-link fence, detached single car garage, shed, and mature trees that define the property today. These structures were installed well before current zoning restrictions were adopted, and the property layout reflects those earlier standards.

Our property has a cluster of 8 pine trees with an additional 9<sup>th</sup> tree at the back that would need to be completely removed or severely damaged to move the fence 20 feet back off the property line. These trees provide existing shade and privacy to the property. Also our shed would likely be impacted as it is inches from required setback. Moving the fence inward more than 20 feet would restrict access between our shed and garage while eliminating usable yard space.

- B. Whether the variance is substantial;

The variance is modest and represents the minimum relief necessary. The new fence was placed along the same line as the original chain-link fence that existed for almost 30 years. It maintains the established boundary line, follows the natural tree line, and does not extend beyond the visual footprint that has long defined the rear of our property.

Additionally, we plan to install an in-ground swimming pool next spring. State and local safety codes require a 5-foot barrier surrounding a pool. Installing this privacy fence now was the first step toward compliance and safety for our family. It would not be feasible to add a pool later without first establishing a suitable fence.

- C. 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.

The fence improves both appearance and harmony with the neighborhood. It replaced an aging rusty chain-link fence with a well-constructed privacy fence consistent in style and height with other fences in nearby residential areas.

The fence has widespread neighborhood support including adjacent and nearby property owners. Several neighbors who face the fence daily have signed letters as well affirming that it enhances the look of the neighborhood and was a clear upgrade from the fence prior. They also agree that the fence is consistent with existing fence styles along Hanes road and other neighborhoods in the same zoning district. This reinforces that the design is common and visually compatible with the community.

- D. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);

The fence does not interfere with utilities, easements, or municipal services. The rear easement behind our property is 32 feet wide, leaving more than enough space for service vehicles and utility access until the planned widening of Hanes Road occurs. The fence is placed clear of service lines and does not impede drainage or maintenance access. The fence also adheres to guidelines requiring a double gate for rear access to the property.

- E. Whether the property owner purchased the property with knowledge of the zoning restriction(s) in place at the time he or she purchased the property;

We acted in good faith when replacing the old chain-link fence. A licensed contractor that our friends, family and we have used before was hired and paid to obtain the proper permit and notify us of any compliance issues before installation. We were informed that no issues existed and that similar fences in the area were permitted.

Only after completion did we learn that we have a double-fronted lot with restrictions and setback rule. Given that the original fence, trees, garage, and shed all pre-date these zoning changes, the current property configuration was not created by us and could not have been reasonably anticipated.

- F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

No practical alternative exists that would maintain both safety and usability. Relocating the fence 20 feet inward would require removal of mature trees or block access to existing structures. Lowering the fence height would reduce privacy and fail to provide adequate safety for our young, growing family.

Our property backs onto a busy road with heavy traffic and noticeable traffic noise. As the city plans to widen Hanes Road and eventually add a sidewalk through our rear easement, pedestrian traffic will increase directly behind our yard. The 6-foot privacy fence provides essential noise reduction, security, and safety for our children.

The fence also ensures future compliance with pool safety codes, which require a minimum 5-foot barrier. Without the existing fence, any future pool installation would be noncompliant and unsafe.

- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

The spirit of Beavercreek's zoning code is to protect neighborhood appearance, safety, and property values. The existing fence upholds all of these goals. It blends naturally with surrounding properties, preserves mature trees, improves visual quality, and provides a safe, private environment for a young family living along a busy public road.

The fence was built in good faith, aligns with neighborhood precedent, and is consistent with the code's safety intent—particularly as it will serve as a required enclosure for a future pool. Granting this variance would honor the intent of the zoning code and deliver substantial justice by balancing reasonable property use with community welfare.



# INVOICE

Copley Construction LLC  
1359 E Main St  
Xenia, OH 45385

copleyconstructionllc@gmail.com  
+1 (937) 203-9487  
www.copleyconstructionllc.com



**Bill to**  
Hailey Moeggenberg  
1680 N Laddie  
Beavercreek, OH

**Ship to**  
Hailey Moeggenberg  
1680 N Laddie  
Beavercreek, OH

## Invoice details

Invoice no.: 2040  
Terms: Net 30  
Invoice date: 07/31/2025  
Due date: 08/30/2025

#	Date	Product or service	Description	Qty	Rate	Amount
1.		Fence	remove existing chainlink fence in back of house. <u>pull required permits</u> , mark underground lines. lay out for new fencing, approx 341 linear feet. dig holes, set posts in ground with concrete. frame up and install new 6ft tall wood privacy fence including one man gate and one double gate. clean up and haul away debris.	1	\$8,354.12	\$8,354.12

## Ways to pay



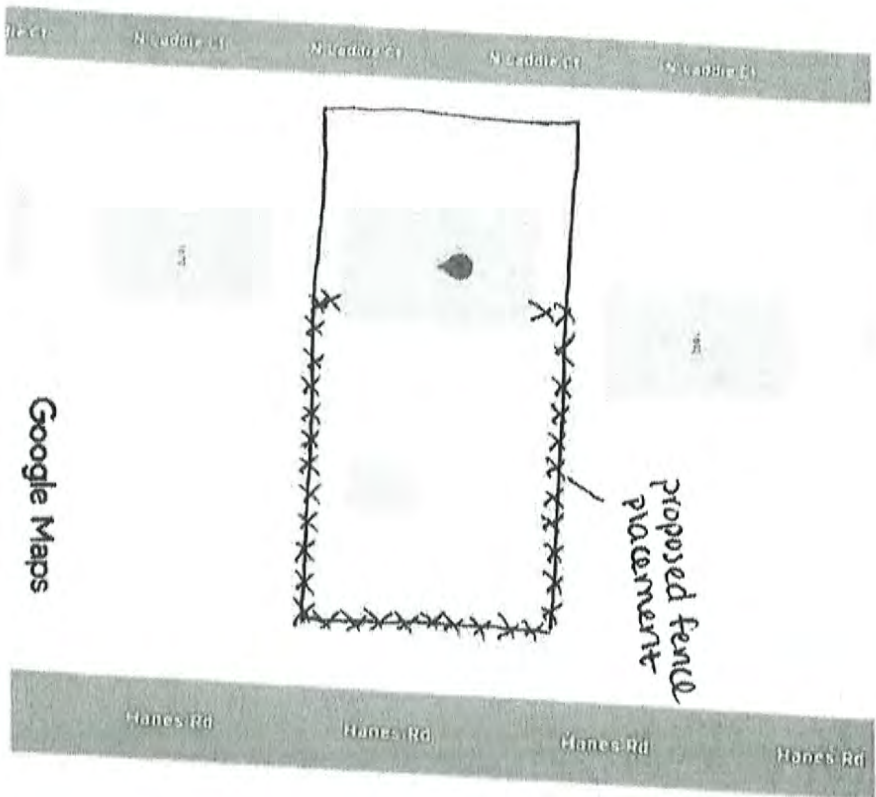
**Total** **\$8,354.12**

Payment **-\$8,354.12**

**Balance due** **\$0.00**

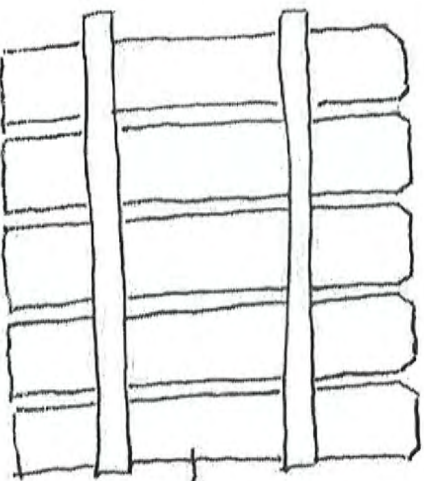
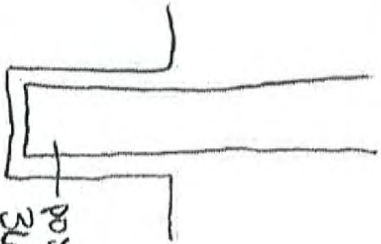
**Paid in Full**

pa 6/30



Google Maps

Map data ©2025 Google 20 ft







Greene County Legend

Interstate Highway	Parcel Number	Schools
US Highway	Lot Number	Parks
State Route		Cemetery
Local Roads		Shopping
Parcel Boundary		Buildings
Corporation Boundary		Hydrography
Topography		

1 inch = 30 feet

**DISCLAIMER:**  
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**GIMS**  
Greene County GIS  
Spatial Reference  
NAD 1983 HARN Spheroid Ohio South FIPS 3402 Feet  
Datum: North American 1983 HARN  
Projection: Lambert Conformal Conic  
Central Meridian: -82.5000  
Latitude of Origin: 38.0000  
Longitude of Origin: 0.0000  
False Easting: 1,568,500.0000  
False Northing: 0.0000  
Central Parallel: 38.7333  
Standard Parallel 2: 40.0333  
Scale Factor: 0.0000  
Azimuth: 0.0000  
Map Units: Feet US























