

**Board of Zoning Appeals**  
**January 4, 2024 @ 9:00am**  
Council Chambers  
First Floor, 345 High Street  
Hamilton, Ohio 45011

**Karen Underwood-Kramer**  
Chairperson

**Samy Broyles**  
Vice Chair

**Arnita Gunn**  
Board Member

**Matthew Von Stein**  
Board Member

**Michael Reuter**  
Board Member

**Tim MacDonald**  
Alternate

**Roll Call:**

2 Public Hearing(s)

<b>Broyles</b>	<b>VON STEIN</b>	<b>GUNN</b>	<b>REUTER</b>	<b>RIVERS</b>

**Swearing in of Those Providing Testimony to the BZA:**

Vice Chair Samy Broyles

**Conflict of Interest Statement**

Prior to consideration of the following agenda items, each member should examine the agenda to determine whether he or she has any conflict of interest with any agenda item.

If so, please note the agenda item for which you intend to abstain or recuse yourself as an exception to the upcoming motion. You may not discuss or vote on any item you have a conflict of interest with or act in any way to influence the deliberation or vote.

Motion: I move that a note be made upon the minutes that each member of the BZA was furnished a copy of the agenda prior to its being considered at this meeting, and that, with the exception of the items so noted, no member has identified any conflict of interest regarding any agenda item.

Motion

<b>Broyles</b>	<b>VON STEIN</b>	<b>GUNN</b>	<b>REUTER</b>	<b>RIVERS</b>

Roll Call of Vote

<b>Broyles</b>	<b>VON STEIN</b>	<b>GUNN</b>	<b>REUTER</b>	<b>RIVERS</b>

**New Business:**

**Agenda Item #1**

**BZA 2023-12-013: Variance Requests for 1184 Allen**

The Applicant is requesting three (3) Variances under the Hamilton Zoning Ordinance:

**Variance Request 1:** Section 1504: Side Yards and Lot Coverage-Narrow Lot Provisions-Accessory Structure

**Variance Request 2:** Section 1823 Continuity: The same style, type, and color of roof material shall be used on all roof surfaces of the primary building and on any accessory buildings over 200-sq. ft. in area. Exceptions may be made for feature or accent windows such as bay, rosette, or palladium windows. If matching material is no longer reasonably available the material and color may be an appropriate match.

**Variance Request 3:** Section 1504: Side Yards and Lot Coverage-Narrow Lot Provisions-Driveway

Staff: Andrew Schweier

Motion

Broyles	VON STEIN	GUNN	REUTER	RIVERS

Roll Call of Vote

Broyles	VON STEIN	GUNN	REUTER	RIVERS

**Agenda Item #2**

**BZA 2024-01-001: Variance Requests for 2220 Bender Ave**

The Applicant is requesting two (2) Variances under the Hamilton Zoning Ordinance

**Variance Request 1:** Section 1413 Fences (Residential) Height of fences in rear or side yards is limited to six (6) feet in all residential districts. Fences taller than six (6) feet require a building permit.

**Variance Request 2:** Section 1506 Accessory Structures: only one (1) of each type of accessory structure is permitted.

Staff: Andrew Schweier

Motion

Broyles	VON STEIN	GUNN	REUTER	RIVERS

Roll Call of Vote

Broyles	VON STEIN	GUNN	REUTER	RIVERS

**Minutes**

December

Motion

<b>Broyles</b>	<b>VON STEIN</b>	<b>GUNN</b>	<b>REUTER</b>	<b>RIVERS</b>

Roll Call of Vote

<b>Broyles</b>	<b>VON STEIN</b>	<b>GUNN</b>	<b>REUTER</b>	<b>RIVERS</b>

**Notice of Decision BZA 2023-12-011**

Motion

<b>Broyles</b>	<b>VON STEIN</b>	<b>GUNN</b>	<b>REUTER</b>	<b>RIVERS</b>

Roll Call of Vote

<b>Broyles</b>	<b>VON STEIN</b>	<b>GUNN</b>	<b>REUTER</b>	<b>RIVERS</b>

**Notice of Decision BZA 2023-12-012**

Motion

<b>Broyles</b>	<b>VON STEIN</b>	<b>GUNN</b>	<b>REUTER</b>	<b>RIVERS</b>

Roll Call of Vote

<b>Broyles</b>	<b>VON STEIN</b>	<b>GUNN</b>	<b>REUTER</b>	<b>RIVERS</b>

**Miscellaneous:**

Election of Chair for 2024

Motion

<b>Broyles</b>	<b>VON STEIN</b>	<b>GUNN</b>	<b>REUTER</b>	<b>RIVERS</b>

Roll Call Vote

<b>Broyles</b>	<b>VON STEIN</b>	<b>GUNN</b>	<b>REUTER</b>	<b>RIVERS</b>

Election of Vice Chair for 2024

Motion

Broyles	VON STEIN	GUNN	REUTER	RIVERS

Roll Call Vote

Broyles	VON STEIN	GUNN	REUTER	RIVERS

**BZA 2023-12-011: Bubbakoos:** The sign company is working on new signage for the location. Specifically on the East elevation they called with a question surrounding the window size. Staff measures the window opening to obtain the dimensions and allowable signage. This is the standards consistently used by staff. Applicant measured the inside of the window frame and came up with a measurement roughly 10 sq ft smaller. Because they are allowed to use the wall sign of 97 sq. ft., and if the Director approved a 10% Administrative Variance, the current window sign would be in compliance. Because the BZA made the decision, Staff does not want to make the Administrative approval without the Boards input.

Adjournment:



REPORT TO THE CITY OF HAMILTON BOARD OF ZONING APPEALS  
FOR MEETING DATE OF January 4, 2024  
BZA 2023-12-013

**CASE NO. BZA: 2023-12-013**

**PROPERTY ADDRESS: 1184 Allen Ave**

**PARCEL ID # P6462014000037**

**APPLICANT: Brittany Wilke**

PROPOSED REQUEST:

The applicant is proposing to build a 12 foot by 24 foot (288 square foot) detached accessory structure. The accessory structure will be constructed of wood/vinyl siding painted to match the primary residence with trim painted to match the residence. The roof as proposed will be a black metal roof.

**Variance 1:** Section 1504 Narrow Lot Provisions: Lots 45-54 feet wide: Applicant is requesting to build an accessory structure which would be located two feet from the property line. **A variance request of 50%.**

**Variance 2:** Section 1823 Continuity: The same style, type, and color of roof material shall be used on all roof surfaces of the primary building and on any accessory buildings over 200-sq. ft. in area. Exceptions may be made for feature or accent windows such as bay, rosette, or palladium windows. If matching material is no longer reasonably available the material and color may be an appropriate match. **A variance request of 100% in materials.**

**Variance 3:** Section 1504 Narrow Lot Provisions: Lots 45-54 feet wide: Applicant has constructed a driveway which is less than one (1) foot from the property line. **A variance request of 75%.**

BACKGROUND INFORMATION

The subject property is located at 1184 Allen Ave. The property is located on the north side of Allen Ave between Noyes Avenue and Zimmerman Avenue. The subject property is Zoned "R-2" Single Family Residence, and contains a single family dwelling unit constructed of vinyl/aluminum siding built in 1950.

The R-2 Zoning District, for Narrow Lots 45-54 feet wide, has a reduced side yard setback of four (4) feet on a side and twelve (12) feet total. The subject property is fifty (50) feet wide

REPORT TO THE CITY OF HAMILTON BOARD OF ZONING APPEALS  
FOR MEETING DATE OF January 4, 2024  
BZA 2023-12-013

According to the Butler County Auditor’s website the lot is .1500 acres in size and the residence is 855 square feet. The property was purchased by Brittany Wilke in 2022.

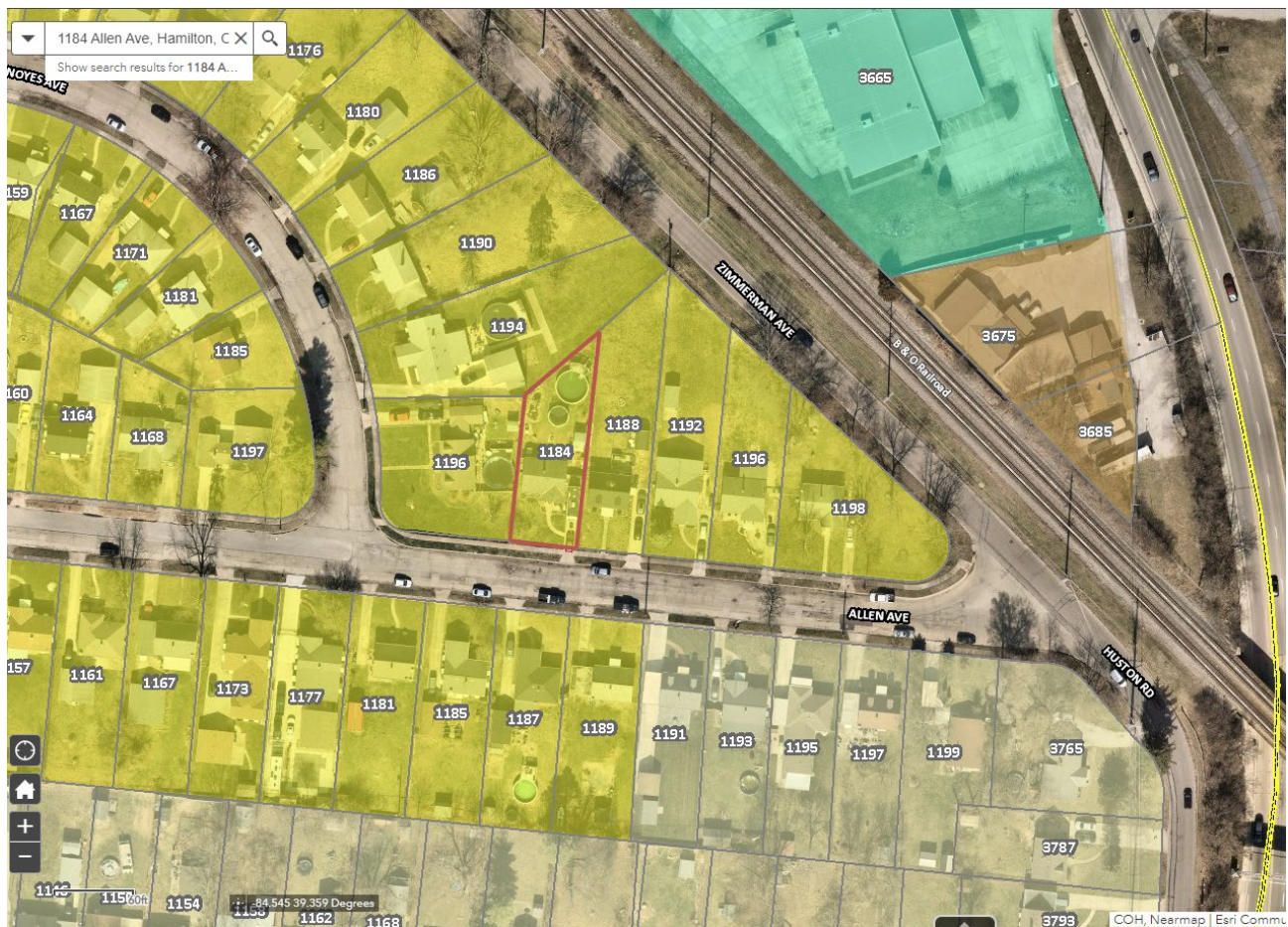


Figure 1: Zoning Map. (Showing Allen Avenue area as R-2, Single-Family Residence and R-1, Single Family)

The properties in yellow to the North, South, East and West are all zoned “R-2” Single Family Residence. The properties located to the South East in pale yellow are zoned R-1 Single Family Residence.

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BZA 2023-12-013

**City of Hamilton Zoning Ordinance:**

The following are the applicable sections of the Hamilton Zoning Ordinance:

Section 1504 of the Hamilton Zoning Ordinance (HZO) states that Narrow Lots with a width of 45-54 feet have a minimum side yard setback of four (4) feet and a side yard sum of least width of twelve (12) feet. This Section applies to both Variance 1 and Variance 3.

**1504 Side Yards and Lot Coverage - Narrow Lot Provisions**

Special Setback Provisions for lots with a width of 55 feet or less.

<b>LOT WIDTHS: (Narrow Lots)</b>	<b>Side Yards Least Width on a Narrow Lot</b>	<b>Side Yards Sum Of Least Width on a Narrow Lot</b>	<b>Size of a Detached Garage on a Narrow Lot</b>	<b>Maximum Lot Area Coverage on a Narrow Lot</b>
Lots 45-54 feet wide	4 feet	12 feet	See <a href="#">Accessory Building chart</a>	35%
Lots 36-44 feet wide	3 feet	11 feet	24 feet length 20 feet width	45%
Lots 35 feet wide or less	3 feet	8 feet	24 feet length 15 feet width	50%

Section 1823 Continuity: The same style, type, and color of roof material shall be used on all roof surfaces of the primary building and on any accessory buildings over 200-sq. ft. in area. Exceptions may be made for feature or accent windows such as bay, rosette, or palladium windows. If matching material is no longer reasonably available the material and color may be an appropriate match.

**STAFF COMMENTS:**

Staff was contacted by Brandon Burn in regards to building an accessory structure at the property. Staff advised the Applicant that variances would likely be required due to the potential location. Mr. Burn was advised to submit the building plans with the location and dimensions of the accessory structure for review. Staff advised that the plans would likely be denied until the BZA heard the case.

The day after receiving the Board of Zoning Appeals application, Staff visited the site and spoke with the Brandon Burn. The Mr. Burn advised that the stakes that were in the ground are two feet off of the property line and the accessory structure will be slightly inside of the stakes. Mr.



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Burn advised that the 12 foot by 24 foot accessory structure will be constructed out of wood/vinyl siding which will be painted to match the house and that the trim will match as well. Mr. Burn advised that the roof will drop down to the side of the accessory structure so water will not flow onto the neighbor's property, but stated that the structure will not have gutters. Staff photographed the proposed location while on site.

Mr. Burn provided a photo of what the accessory structure will look like. Upon reviewing the submitted drawing and speaking with the Applicant, it was determined that a second variance would be required for the metal roof due to the size of the accessory structure and the Residential Design standards.

Mr. Burn advised that the driveway is being replaced in the same location as the previous driveway. The Applicant may expand toward the house and eliminate an approximate three foot section of grass.

Upon returning to the property for additional photographs, Staff noted that the driveway was poured and that it was less than one (1) foot from the property line. Staff spoke with Mr. Burn who advised that the driveway was poured in the same location as the old driveway.

Staff checked aerial views from previous years. Aerial photos from before the Applicants owned the property do not show the driveway extending into the rear yard or less than one foot from the property line. Staff could not determine if the driveway had been extended or located within one (1) foot of the property line from other aerial photos when the Applicants would have owned the property. Logically, the driveway was likely not expanded prior to the Applicants purchase. The aerial photo which shows the driveway does not exist is approximately six months prior to the applicants purchase. If the driveway had been expanded, it should not need to be replaced within two years. The aerial view did not appear to show that the driveway had expanded to the rear yard, but the most recent views were not clear.

Staff has discussed the appropriateness of requiring an applicant to get a variance on the driveways which were built prior to the zoning code having a setback. Staff is considering a language change to the Zoning Ordinance to amend the Code for those circumstances. In this situation, with the questions surrounding the expansion of the driveway, Staff believed it best to present to the Board for review.





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Neighbor Comments

Staff has received one comment from William and Amy Lievens who reside at 1188 Allen Ave. The Lievens advised that they have no issues with the accessory structure being located 2 feet from the property line.

**VARIANCE REVIEW CRITERIA:**

**4206 Hamilton Zoning Ordinance**

Variance - Conditions Prevailing: Where, by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property on the effective date of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of this Ordinance would involve practical difficulty or would cause unnecessary hardship (unnecessary to carry out the spirit and purpose of this Ordinance) the Board shall have power to authorize a variance from the terms of this Ordinance, so as to relieve such hardship. In authorizing a variance, the Board may attach thereto such condition regarding the location, character and other features of the proposed structure or use as it may deem necessary in the interest of the furtherance of the purposes of the Ordinance and in the public interest. In authorizing a variance, with attached conditions, the Board shall require such evidence and guarantee or bond as it may deem to be necessary to enforce compliance with the conditions attached.

**4207 Variance-Findings of the Board:**

No such variance of the provisions or requirements of this Ordinance shall be authorized by the Board unless the Board finds that the following facts and conditions exist.

I. Will the property yield a reasonable return or can there be a beneficial use of the property without the Variance?

APPLICANT'S RESPONSE: No

Staff Comment: Yes there can be a beneficial use of the property without the Variance for the accessory structure, roof continuity, and driveway.

II. Is the Variance substantial?



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**APPLICANT'S RESPONSE:** No it's only 2 feet and the roof color will match the primary structure.

The driveway is 2 feet away from the property line until you get to the extension then it is only six inches away where the old shed sits.

**Staff Comment:** Yes the variance requests are substantial.  
While Variance 1 is a 2 foot request, it is a 50% reduction of the required setback.  
Variance 2 is a 100% variance request. The primary residence has a shingle roof and the accessory structure is required to match, though the applicant has stated that he is going to paint the metal to match the color of the roof.  
Variance 3 is a 75%+ decrease in setbacks for the driveway to be less than one (1) foot from the property line.

III. Would the Variance cause a substantial alteration in the essential character of the neighborhood or cause a substantial detriment to the adjoining properties?

**APPLICANT'S RESPONSE:** No. The garage would sit right at the adjoining of the extension of the driveway.

**Staff Comment:** Variance 1: No, the location of the accessory structure is not significantly different from other accessory structures in the neighborhood. STAFF notes that other houses have accessory structures approximately three (3) feet from the property line.

Variance 2: Staff notes that other accessory structures in the neighborhood have metal roofs. However, those structures are under 200 square feet and are not required to meet Section 1823 Continuity.

Variance 3: Expansion of non-conforming uses (driveway) can create a substantial alteration in the essential character of the neighborhood.

IV. Would the Variance adversely affect the delivery of governmental services?

**APPLICANT'S RESPONSE:** No. No, there is a gate on the extension of the driveway to get into the backyard.

**Staff Comment:** No. Government services will not be affected.



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V. Did the property owners purchase the property with the knowledge of the zoning restriction?

APPLICANT'S RESPONSE: No. The extension of the driveway was already like that when I bought the house in 2021

Staff Comment: The Butler County Auditor's website shows that the house was built in 1950. The house was transferred by sale to the current owner/ applicants in 2022. The City of Hamilton adopted zoning regulations in 1947.

Narrow lot provisions requiring a minimum setback have been part of the Hamilton Zoning Ordinance since at least 1978. All applicable regulations were in place prior to the owners purchasing the residence.

VI. Could the problem be solved in some other manner other than the granting of the Variance?

APPLICANT'S RESPONSE: No. It would have to be offset from the driveway. The metal roof is the standard for this structure and would require a special order to change.

Staff Comment:

Variance 1: The Applicant could move the accessory structure location two feet further to the west and be in compliance.

Variance 2: The accessory structure would have to be built with a shingle roof to match the existing roof of the residence or the primary structure roof replaced with a metal roof.

Variance 3: The driveway could be built within the original outline of the driveway which would have been acceptable. Staff is unable to determine who expanded the driveway.

VII. Would the Variance preserve the spirit and intent of the zoning requirement and substantial justice be done by granting the variance?



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**APPLICANT'S RESPONSE:** Yes because this house was built so long ago, the way the driveway is aligned. Metal roofs are generally permitted and the color will match the primary structure. Yes because the garage would meet right at the extension of the driveway and sit about 2 feet away from the property line.

**Staff Comment:**

**Variance 1:** The Spirit and Intent of the current zoning ordinance is to create space and distance between residences for health and safety reasons. Structures built prior to setbacks being implemented generally have difficulty meeting those standards.

**Variance 2:** The Spirit and Intent of the Zoning Ordinance are not met by the metal roof in this situation. No hardship has been presented.

**Variance 3:** The spirit and intent of the zoning ordinance are not met by the driveway being located within six inches of the property line. A hardship has not been presented unless the Board finds that the driveway existed in that location prior to applicants purchase.

**4209 Decision Of Board Of Zoning Appeals:**

In exercising the above enumerated powers, the Board may reverse or affirm, wholly or partly or may modify the order, requirement, decision or determination appealed from to the extent and manner that the Board may decide to be fitting and proper on the premises, and to that end the Board shall have all the powers of the City Manager or Designee from whom the appeal is taken. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the City Manager or Designee or to decide in favor of the applicant on any matter upon which it is authorized by this Ordinance to render a decision.

**ACTION:**

The Board of Zoning Appeals shall approve, approve with conditions, or deny the applicants variance request.

Should the BZA approve the applicant's request, the following conditions should be considered for each request:

REPORT TO THE CITY OF HAMILTON BOARD OF ZONING APPEALS  
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BZA 2023-12-013

1. The BZA approves waiving the thirty (30) day waiting period to allow the applicant to receive any needed permits. The applicant hereby acknowledges that any work completed prior to the end of the appeal period is at their own risk.
2. All water associated with the new accessory structure be directed away from neighboring properties.
3. The accessory structure shall be used for personal items only and no storage of business/work related items are permitted.
4. The accessory structure roof shall be painted to match the primary roof as represented to the BZA.
5. The accessory structure shall be painted to match the primary structure as represented to the BZA.



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BZA 2023-12-013



The stakes indicate the approximate location of the accessory structure. The stakes are two (2) feet off of the fence. The applicant has not requested an expansion of the driveway and indicated it will not move closer to the property line

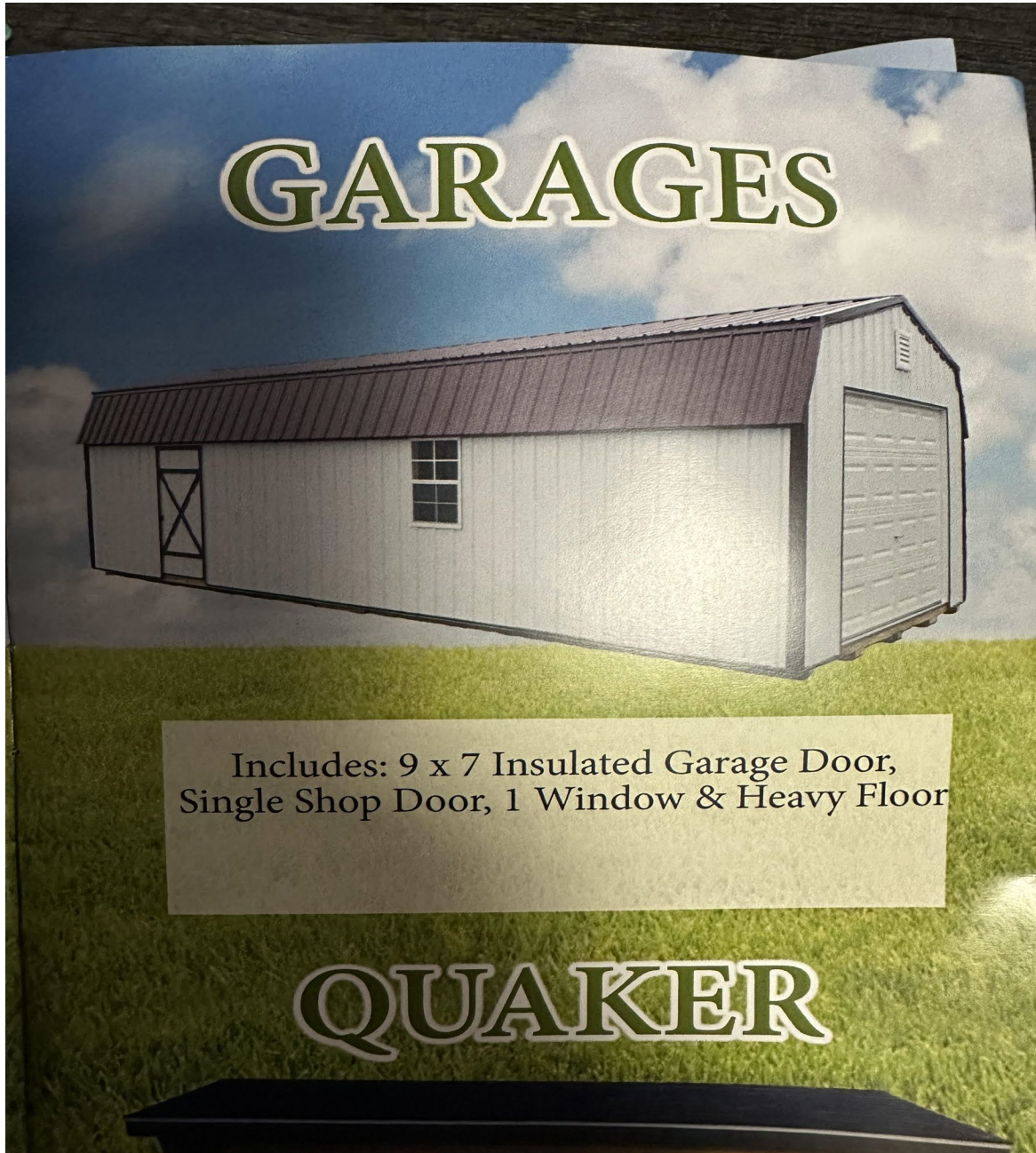


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FOR MEETING DATE OF January 4, 2024  
BZA 2023-12-013





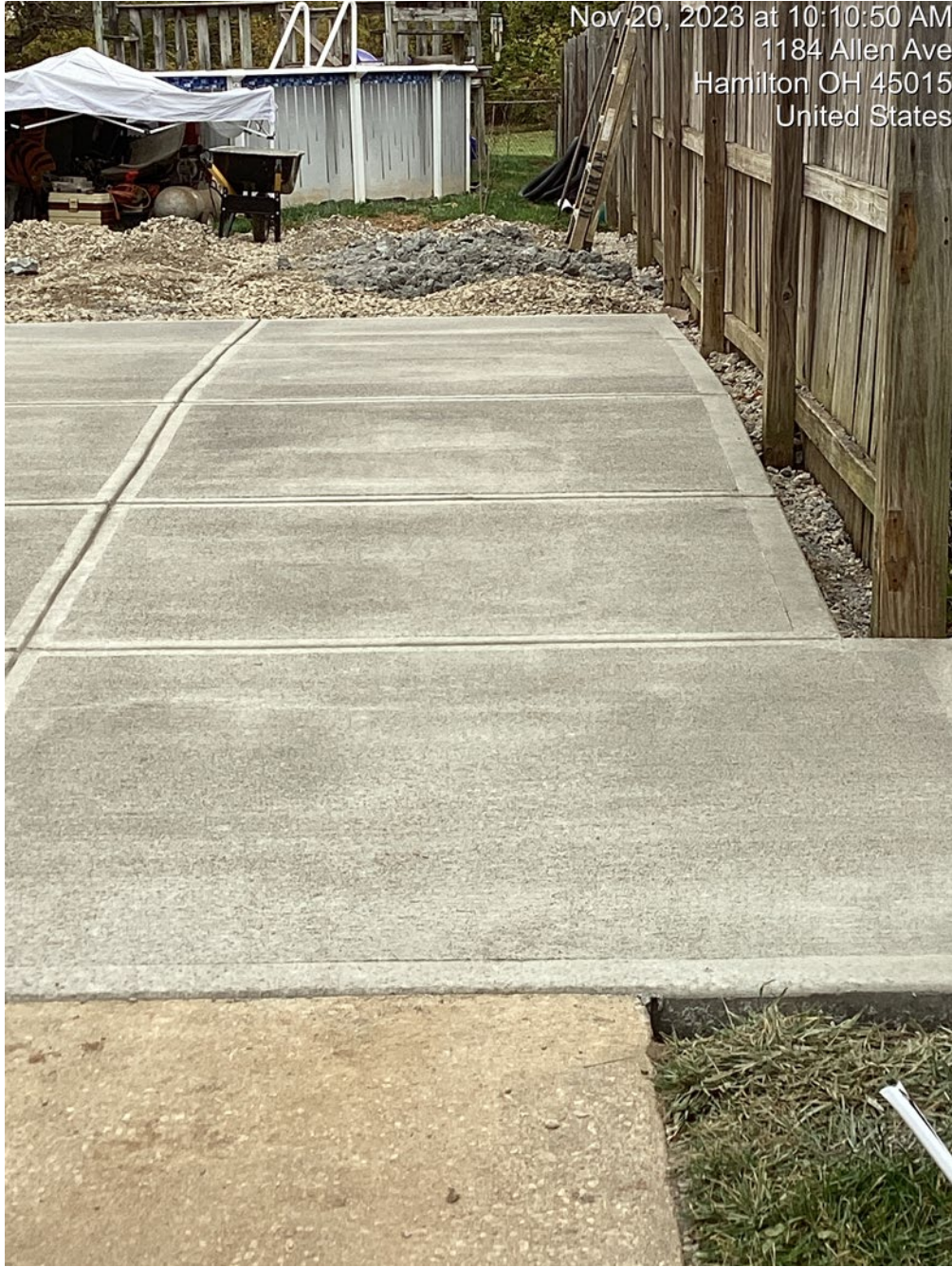
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FOR MEETING DATE OF January 4, 2024  
BZA 2023-12-013







REPORT TO THE CITY OF HAMILTON BOARD OF ZONING APPEALS  
FOR MEETING DATE OF January 4, 2024  
BZA 2023-12-013



**Application Fee:**  
**\$200**

**BOARD OF ZONING APPEALS**  
(Variance to the City of Hamilton Zoning Ordinance)  
**APPLICATION**

Fees:	
All Appeals to BZA	\$200.00
Appeal of ADRB Decision	no charge

Property Address: 1184 Allen Ave Hamilton OH 45015  
 Property Owner: Brittany N Wilke  
 Owner's Mailing Address: 1184 Allen Ave  
 Owner's Phone Contact: 513.892.9396  
 Appellant's Name (if different from owner): \_\_\_\_\_  
 Appellant's Mailing Address: \_\_\_\_\_  
 Appellant's Email Address: Bratanikis06@aol.com  
 Appellant's Phone Contact: \_\_\_\_\_

**Purpose of Application (Check all that apply):**

Requesting a variance from the Hamilton Zoning Ordinance (also required: fill out **Appellant's rational for requesting a Variance. See: Page 4**)

*Most common variance requests:*

- Fences                       Setbacks                       Signage
- Accessory Structures (shed, garage, etc.)
- Other (please explain):

- Appeal of Decision of Architectural Design Review Board, ADRB (see page 5)
- Appeal of Staff Interpretation of the Zoning Ordinance (see page 5)
- Substitution of Non-Conforming Use (see page 5)
- Temporary Use (see page 5)



**Application Fee:**  
**\$200**

VARIANCES

**REQUIRED: Variance-Findings of the BZA:** No variance of the provisions or requirements of the Hamilton Zoning Ordinance shall be authorized by the BZA unless the BZA finds that practical difficulties exist sufficiently to warrant a variance. In making this determination the Board shall consider and weigh the following factors: Please address each item below in the space provided.

i. Will the property yield a reasonable return or can there be a beneficial use of the property without the Variance?

No

ii. Is the Variance substantial?

No it is only 2 ft

iii. Would the Variance cause a substantial alteration in the essential character of the neighborhood or cause a substantial detriment to the adjoining properties?

No

iv. Would the Variance adversely affect the delivery of governmental services?

No



**Application Fee:**  
**\$200**

v. Did the property owners purchase the property with the knowledge of the zoning restriction?

No

vi. Could the problem be solved in some other manner other than the granting of the Variance?

No, It would off set from the Driveway

vii. Would the Variance preserve the spirit and intent of the zoning requirement and substantial justice be done by granting the variance?

yes, because this house was built so long ago the way the driveway is alligned

**OTHER:** Please check the reason for the Application and Explain in the box below.

Substitution of Non-Conforming Use

Temporary Use

Appeal of Decision of Architectural Design Review Board

Appeal of Interpretation

[Empty box for explaining the reason for the application]



**Application Fee:  
\$200**

**CERTIFICATION:**

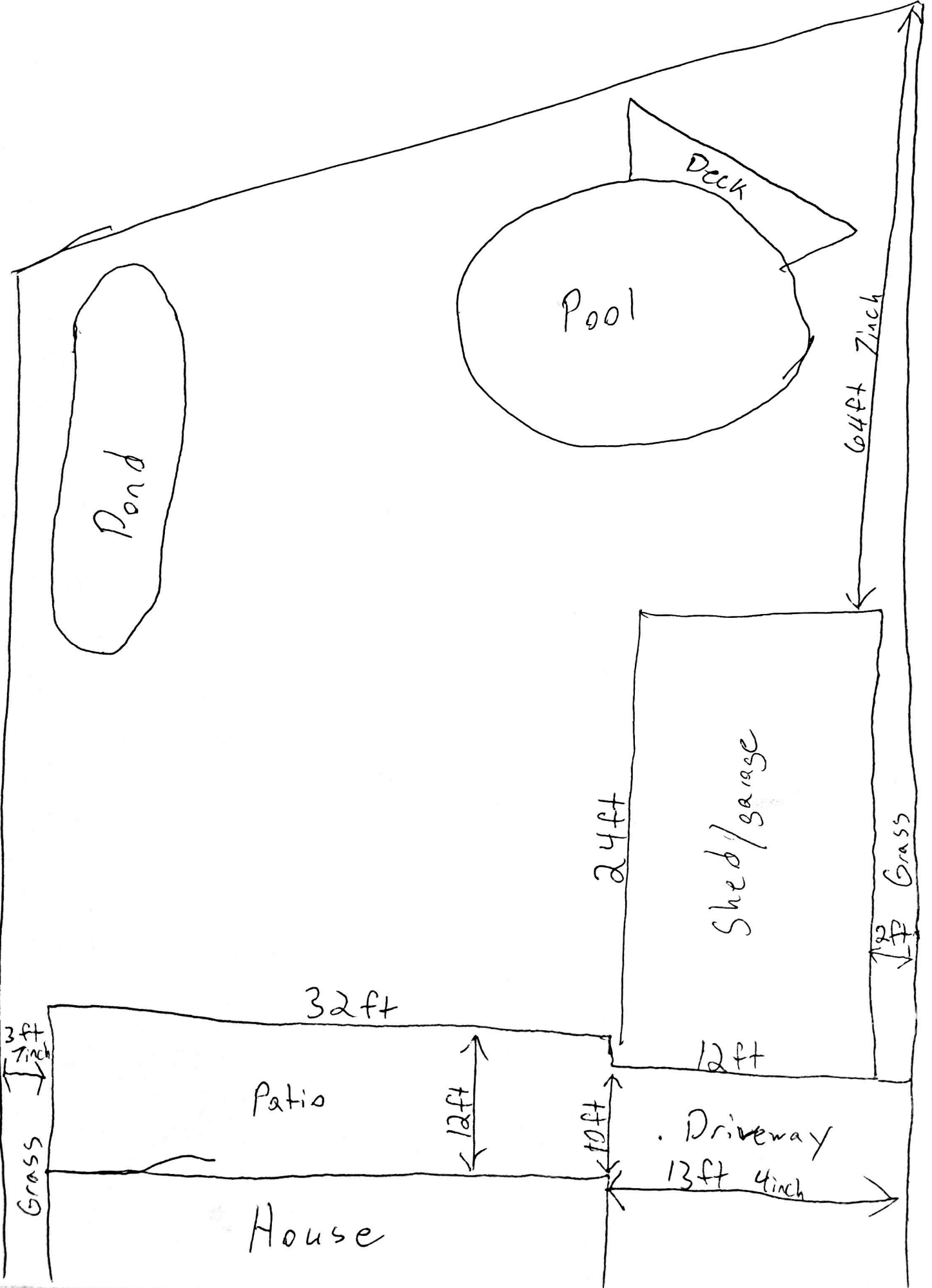
I certify that all of the information contained in this Application is complete, true and accurate.

\_\_\_\_\_  
Appellant's Signature Date

\_\_\_\_\_  
Appellant's Printed Name

Brian Wilke 11.7.23  
Property Owner's Signature Date

Brittany N Wilke  
Property Owner's Printed Name





AJ Schweier &lt;aj.schweier@hamilton-oh.gov&gt;

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**(no subject)**

2 messages

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**bratanikis06@aol.com** <bratanikis06@aol.com>  
To: AJ Schweier <aj.schweier@hamilton-oh.gov>

Wed, Nov 29, 2023 at 8:29 AM

i. No

ii. The driveway is 2 feet away from property line until you get to the extension then it is only 6 inches away until where the old shed sits.

iii. No the garage would sit right at the joining of the extension of the driveway

iv. No there is a gate on the extension of the driveway to get in my backyard

V. No the extension to the driveway was already like that when I bought the house in 2021

vi. No

vii. Yes bc the garage would meet right at the extension of the driveway and sit about 2 feet away from property line

Sent from the all new AOL app for iOS

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**AJ Schweier** <aj.schweier@hamilton-oh.gov>  
To: "bratanikis06@aol.com" <bratanikis06@aol.com>

Wed, Dec 13, 2023 at 10:44 AM

I think I found them. Are these the answers?

AJ  
Andrew J. Schweier  
Planning and Zoning Specialist  
513-785-7373  
[aj.schweier@hamilton-oh.gov](mailto:aj.schweier@hamilton-oh.gov)

[Quoted text hidden]



AJ Schweier &lt;aj.schweier@hamilton-oh.gov&gt;

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**1184 Allen Ave Property Line**

2 messages

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**W Lievens** <74wlievens@gmail.com>

Tue, Nov 14, 2023 at 3:04 PM

To: "aj.schweier@hamilton-oh.gov" &lt;aj.schweier@hamilton-oh.gov&gt;

11/14/23

To whom it concerns,

William and Amy Lievens reside at [1188 Allen Ave](#), next to Brittany Wilke at 1184 Allen Ave. Brittany discussed having a shed/garage built 2' from the property line instead of the 4' per the code. We do not have any issues with the structure being 2' from the property line.

Respectfully,  
William & Amy Lievens

---

**AJ Schweier** <aj.schweier@hamilton-oh.gov>

Tue, Nov 14, 2023 at 3:39 PM

To: W Lievens &lt;74wlievens@gmail.com&gt;

Thank you for providing your feedback. I will add your comments to my presentation. A letter will be sent out shortly in which you will be able to attend the public meeting if so desired.

Thanks,

AJ  
Andrew J. Schweier  
Planning and Zoning Specialist  
513-785-7373  
[aj.schweier@hamilton-oh.gov](mailto:aj.schweier@hamilton-oh.gov)

[Quoted text hidden]





REPORT TO THE CITY OF HAMILTON BOARD OF ZONING APPEALS  
FOR MEETING DATE OF January 4, 2024  
BZA 2024-01-001

**CASE NO. BZA: 2023-01-001**

**PROPERTY ADDRESS: 2220 Bender Avenue**

**PARCEL ID # P6451023000014, P6451023000013, and P6451023000012**

**APPLICANT: Scott Meister**

**PROPOSED REQUEST:**

The applicant is proposing to build a nine (9) foot privacy fence and is requesting to keep two accessory structures on the property. The first accessory structure is located on the parcel listed as 1248 Parkamo. That accessory structure is 12 feet x 16 feet (192 square feet) and meets the Hamilton Zoning Ordinance (HZO). The second accessory structure is 12 foot by 24 foot (288 square foot) detached accessory structure. The accessory structure is constructed of wood siding and the applicant has said it will be painted to match the primary residence with trim painted to match the residence. The roof as proposed will be a black metal roof.

**Variance 1:** Section 1413: Fences (Residential Use) D. The height of fences in rear or side yards is limited to six (6) feet in all residential districts. E: Fences taller than six (6) feet in height require a building permit through the City's Building Department. **A variance request of 150%.**

**Variance 2:** Section 1506 Accessory Structures: Only one of each type of accessory structure is permitted. **A variance request of 100%.**

**BACKGROUND INFORMATION**

The subject property is located at 2220 Bender Avenue and consists of three parcels. The property is located on the north side of Bender Ave between Parkamo and Pater Ave. The subject property is zoned "R-2", Single Family Residence, and contains a single family residence constructed aluminum/ vinyl siding built in 1931.

According to the Butler County Auditor's website the three parcels total .305 acres in size and the residence is 1,124 square feet. The property was purchased by Constance Meister in May 2022

REPORT TO THE CITY OF HAMILTON BOARD OF ZONING APPEALS  
FOR MEETING DATE OF January 4, 2024  
BZA 2024-01-001



Figure 1: Zoning Map. (Showing Bender Avenue area as R-2, Single-Family Residence and R-3, One to Four Family Residence.)

The properties in yellow to the North, South, and East are all zoned “R-2” Single Family Residence. The properties located to the West in tan are zoned R-3, One to Four Family Residence.

REPORT TO THE CITY OF HAMILTON BOARD OF ZONING APPEALS  
FOR MEETING DATE OF January 4, 2024  
BZA 2024-01-001

**City of Hamilton Zoning Ordinance:**

The following are the applicable sections of the Hamilton Zoning Ordinance:

Section 1413: Fences (Residential Use) D. The height of fences in rear or side yards is limited to six (6) feet in all residential districts. E: Fences taller than six (6) feet in height require a building permit through the City’s Building Department.

Section 1506 Accessory Structures: Only one of each type of accessory structure is permitted:

**ZONING ORDINANCE – LOTS, HEIGHTS, SETBACKS CHART**  
(Lot Areas/Coverage, Building Heights, Yards)

1506 **Accessory Structures**  
Sheds, Detached Garages, Barns, etc. <sup>12,13</sup>

ZONING DISTRICT	Maximum Size Of An Accessory Structure <sup>14</sup>	Number of Accessory Structures Allowed On a Property	Accessory Building Maximum Height	Minimum Front Yard <sup>15,16</sup>	Rear Yard (Detached Garage)	Rear Yard Setback, Without An Alley	Side Yard
AG	N/A	N/A	N/A	100 Feet	N/A	N/A	50 feet
R-1, R-2, R-2A, R-3, R-4, R-O, RPD, OPD DT-2 & MS-2 (Residential)	1,000 Square Feet	1 (One)  Only one of each type of accessory structure is permitted. Lots greater than two (2) acres are allowed two (2) of each type of accessory structure.  Property would have to meet lot coverage, setbacks, and building materials.	15 Feet	Accessory buildings shall be setback a minimum of five (5') feet behind the front edge of the house.	10 feet from the alley edge	5 feet	5 feet
B-1, B-2, B-3	1,000 Square Feet		Shall not exceed the height of the principal structure				
I-1, I-2	1,000 Square Feet		15 Feet				
TN-1, TN-2, TN-3, TN-4	1,000 Square Feet		Shall not exceed the height of the principal structure				
Narrow Lots less than 30 feet in width	Can be up to 1,000 Square Feet or 50% Lot Coverage						
Narrow Lots 30 feet to 54 feet in width	Can be up to 1,000 Square Feet or 45% Lot Coverage						
Narrow Lot 55 feet in width	Can be up to 1,000 Square Feet or 35% Lot Coverage						
Form-Based Zoning (DT-1, DT-2, DT-3) (MS-1, MS-2, MS-3) (UCP-1, UCP-2)	1,000 Square Feet						
BPD	Per approved Plan						
IPD	Per approved Plan						
EM-UPD	Per approved Plan						

**STAFF COMMENTS:**

On 06/26/2023 SCHWEIER received a phone call from an unknown person asking for fence regulations, specifically about height of fences. The caller then advised that the owner of 1248 Parkamo, later identified as Scott Meister, was constructing a fence over six feet in height.

SCHWEIER conducted follow up at the listed location and observed that the fence was approximately nine (9) feet high and was located in the primary front yard of the residence (two violations). Staff posted the fence regulations to the subject properties mail box after not being able to make contact with the owner/occupant.



REPORT TO THE CITY OF HAMILTON BOARD OF ZONING APPEALS  
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BZA 2024-01-001

A Notice of Violation letter was issued to the listed owner and occupant the same day.

SCHWEIER received a call from Mr. Meister that day. Mr. Meister stated that he had received permission to erect the fence approximately six months ago. Mr. Meister could not provide any information on who gave him permission. Mr. Meister argued that his front door faces Bender Ave and therefore the fence was located in the side yard.

Mr. Meister then asked about his three (3) sheds since he has three parcels. Staff advised that was also a violation as only one shed is permitted per property with primary structure.

SCHWEIER received a call from Mr. Meister on 06/27/2023 and agreed to meet Mr. Meister at the property. SCHWEIER and WELLS responded to the listed address. Mr. Meister advised that his front door faces Bender Ave, not Parkamo, so that should be the front of his house. SCHWEIER asked to see the front door that Mr. Meister referred to, but Mr. Meister refused. SCHWEIER advised that without that context, information provided may not be accurate. Mr. Meister was advised that he is on a corner lot and has two front yards and his address is officially listed as Parkamo. Mr. Meister advised that he was likely to remove the fence. SCHWEIER advised Mr. Meister that a Notice of Violation letter had been sent. If Mr. Meister was going to remove the fence, then Staff would allow adequate time to remove the fence if progress was being made. Mr. Meister was advised that a BZA application could be filed to keep the fence and the shed.

In August, SCHWEIER received a call from Mr. Meister advising that some panels had been removed, but it was not done yet. Mr. Meister advised that one shed had been sold as well. SCHWEIER advised Mr. Meister to continue to remove panels and posts. SCHWEIER noted that panels had been removed.

On October 6 and October 30, SCHWEIER conducted follow up at the listed address. SCHWEIER noted that since August, there had been no progress made on removing the fence. At that time, SCHWEIER issued the first Notice of Violation letter under the new Civil Citation process.

On November 6, Mr. Meister called asking about changing his address. SCHWEIER was not sure that could be done. Mr. Meister ultimately ended up speaking with Dan Snyder in engineering. On November 14, Engineering approved the address change, so the new address is 2220 Bender.



REPORT TO THE CITY OF HAMILTON BOARD OF ZONING APPEALS  
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STAFF re-assessed the violations based upon the address change provided by Engineering. The height of the fence remains a violation. The location of the fence on Parkamo is brought into compliance per Section 1505, Secondary Frontage. The fence needs to sit 7 1/2 feet off of the property line, which is 15 feet from the street. The fence sits more than 22 1/2 feet from the street.

Other issues were created with the change of address. The location of the fence on Bender Ave is now extending beyond the front portion of the house (Section 1505.14) and the front porch is covered beyond 50% (Section 1833).

On November 14, SCHWEIER provided this information and a BZA application to Mr. Meister. On approximately December 11, Mr. Meister turned in the BZA application for the fence and shed. Information on the application was not complete so SCHWEIER scheduled a meeting with Mr. Meister to complete the application and address the additional issues.

In regards to the second variance request, the second shed, the entire shed is in violation based upon Section 1506.

Also it currently violates Section 1816 Accessory Structures (B) 200 to 399 square feet - Shall have the approximate color of primary structure and be made of brick, stone, cultured stone, stucco, wood, cement board, hardy plank, vinyl siding, or other material expressly designed as an exterior building finish material. Metal is a prohibited siding material.

In addition, the shed would be in violation of Section 1823 Continuity: The same style, type, and color of roof material shall be used on all roof surfaces of the primary building and on any accessory buildings over 200-sq. ft. in area. Exceptions may be made for feature or accent windows such as bay, rosette, or palladium windows. If matching material is no longer reasonably available the material and color may be an appropriate match.

Staff did not include these violations into the requested Variances. These issues will be addressed as conditions should the Board approve the variance request.

Staff met with Mr. Meister on December 15 and the following representations were made by MEISTER:

- MEISTER advised that he intends to remove the coverings on the front porch on the Bender Ave side of the house.



REPORT TO THE CITY OF HAMILTON BOARD OF ZONING APPEALS  
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BZA 2024-01-001

- MEISTER advised that the fence will be located behind the front porch of the residence in compliance with the code.
- MEISTER advised that a new roof will be put on the house in 2024 and that it is going to be a metal roof.
- MEISTER advised that the shed will be painted to match the primary residence no later than May 31, 2024.
- MEISTER advised that the third remaining shed, which was referred to as a dog kennel, will be removed.

Neighbor Comments

As of the writing of the staff report, no comments or concerns have been received from neighbors

**VARIANCE REVIEW CRITERIA:**

**4206 Hamilton Zoning Ordinance**

Variance - Conditions Prevailing: Where, by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property on the effective date of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of this Ordinance would involve practical difficulty or would cause unnecessary hardship (unnecessary to carry out the spirit and purpose of this Ordinance) the Board shall have power to authorize a variance from the terms of this Ordinance, so as to relieve such hardship. In authorizing a variance, the Board may attach thereto such condition regarding the location, character and other features of the proposed structure or use as it may deem necessary in the interest of the furtherance of the purposes of the Ordinance and in the public interest. In authorizing a variance, with attached conditions, the Board shall require such evidence and guarantee or bond as it may deem to be necessary to enforce compliance with the conditions attached.

**4207 Variance-Findings of the Board:**

No such variance of the provisions or requirements of this Ordinance shall be authorized by the Board unless the Board finds that the following facts and conditions exist.

I. Will the property yield a reasonable return or can there be a beneficial use of the property without the Variance?



REPORT TO THE CITY OF HAMILTON BOARD OF ZONING APPEALS  
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**APPLICANT'S RESPONSE:**

Variance 1: I live on property Fence protat (protects) me from people (who) want (to) hurt me I have video of people scream at me.

Variance 2: I keep my stuff in there that I sell online it will keep people from stealing from me.

Staff Comment: Yes there can be a beneficial use of the property without the Variance for the fence or accessory structure.

**II. Is the Variance substantial?**

**APPLICANT'S RESPONSE:**

Variance 1: No they can reach over the fence

Variance 2: Yes, but I would like to keep my structures

Staff Comment: Yes the variance requests are substantial.

Variance 1: Is a request for a nine (9) foot fence, three feet higher than allowed by code, a 150% Variance request.

Variance 2: The request is to allow a second accessory structure, a 100% request as the code only allows one accessory structure.

**III. Would the Variance cause a substantial alteration in the essential character of the neighborhood or cause a substantial detriment to the adjoining properties?**

**APPLICANT'S RESPONSE: No.**

Staff Comment: Yes, the variances would cause a substantial alteration to the character of the neighborhood.

Variance 1: A nine (9) foot fence is not allowed by code and does not exist in the neighborhood. This fence would be on a corner lot, facing two streets.

REPORT TO THE CITY OF HAMILTON BOARD OF ZONING APPEALS  
FOR MEETING DATE OF January 4, 2024  
BZA 2024-01-001

Variance 2: Two accessory structures are not permitted on a lot. Even though three parcels are involved, accessory structures are allowed in conjunction with a primary structure. Allowing two accessory structures would be a substantial alteration to the neighborhood.

IV. Would the Variance adversely affect the delivery of governmental services?

APPLICANT'S RESPONSE: No.

Staff Comment: If the fence remains in its current location, Police and Fire may not be able to obtain access to the front door in case of emergency. Staff has forwarded this to each of those departments for review.

Staff notes that if the fence is installed according to code, then Government Services would not be adversely affected.

V. Did the property owners purchase the property with the knowledge of the zoning restriction?

APPLICANT'S RESPONSE: No. I was told the property was a commercial property

Staff Comment: The Butler County Auditor's website shows that the house was built in 1931. The house was transferred by sale to the current owner/ applicants in 2022. The City of Hamilton adopted zoning regulations in 1947. The current zoning regulations were in place prior to 2022.

VI. Could the problem be solved in some other manner other than the granting of the Variance?

APPLICANT'S RESPONSE: No.

Staff Comment: Yes. The Applicant can comply with the Hamilton Zoning Ordinance. No Hardships have been provided to allow the approval of the Variances.

Variance 1: The Applicant is permitted to have a six foot privacy fence as outlined.

Variance 2: The Applicant is permitted one accessory structure. The Applicants stated use for the accessory structure would be an additional violation of the HZO





REPORT TO THE CITY OF HAMILTON BOARD OF ZONING APPEALS  
FOR MEETING DATE OF January 4, 2024  
BZA 2024-01-001

VII. Would the Variance preserve the spirit and intent of the zoning requirement and substantial justice be done by granting the variance?

APPLICANT'S RESPONSE: I would like to keep my fence at 9 feet. I would like to keep two sheds.

Staff Comment: The granting of these variances would not preserve the Spirit or Intent of the HZO and substantial justice would not be done by granting the variances. The Applicant has not provided any hardships as outlined by the HZO to approve the requested variances.

**4209 Decision Of Board Of Zoning Appeals:**

In exercising the above enumerated powers, the Board may reverse or affirm, wholly or partly or may modify the order, requirement, decision or determination appealed from to the extent and manner that the Board may decide to be fitting and proper on the premises, and to that end the Board shall have all the powers of the City Manager or Designee from whom the appeal is taken. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the City Manager or Designee or to decide in favor of the applicant on any matter upon which it is authorized by this Ordinance to render a decision.

**ACTION:**

The Board of Zoning Appeals shall approve, approve with conditions, or deny the applicants variance request.

Should the BZA approve the applicant's request, the following conditions should be considered for each request:

1. The Building permit shall not be issued until the property is in compliance with requirements for outside storage as required by Zoning and Resident Services.
2. The Applicant shall remove the third shed which is currently used as a dog kennel prior to applying for the Building permit.

REPORT TO THE CITY OF HAMILTON BOARD OF ZONING APPEALS  
FOR MEETING DATE OF January 4, 2024  
BZA 2024-01-001

3. The fence shall be constructed in the location presented to the BZA, in compliance with the Zoning Ordinance.
4. The accessory structure shall be used for personal items only and no storage of business/work related items are permitted.
5. The accessory structure will be painted to match the primary residence no later than May 31, 2024. (Section 1816 (B))
6. The metal roof on the accessory structure will be painted to match the metal roof of the principle structure which is to be installed by 12/31/2024. (Section 1823 Continuity).
7. The front porch on Bender will have screening removed to come into compliance by May 31, 2024



REPORT TO THE CITY OF HAMILTON BOARD OF ZONING APPEALS  
FOR MEETING DATE OF January 4, 2024  
BZA 2024-01-001



This is a view of the 9' fence along Parkamo on June 26



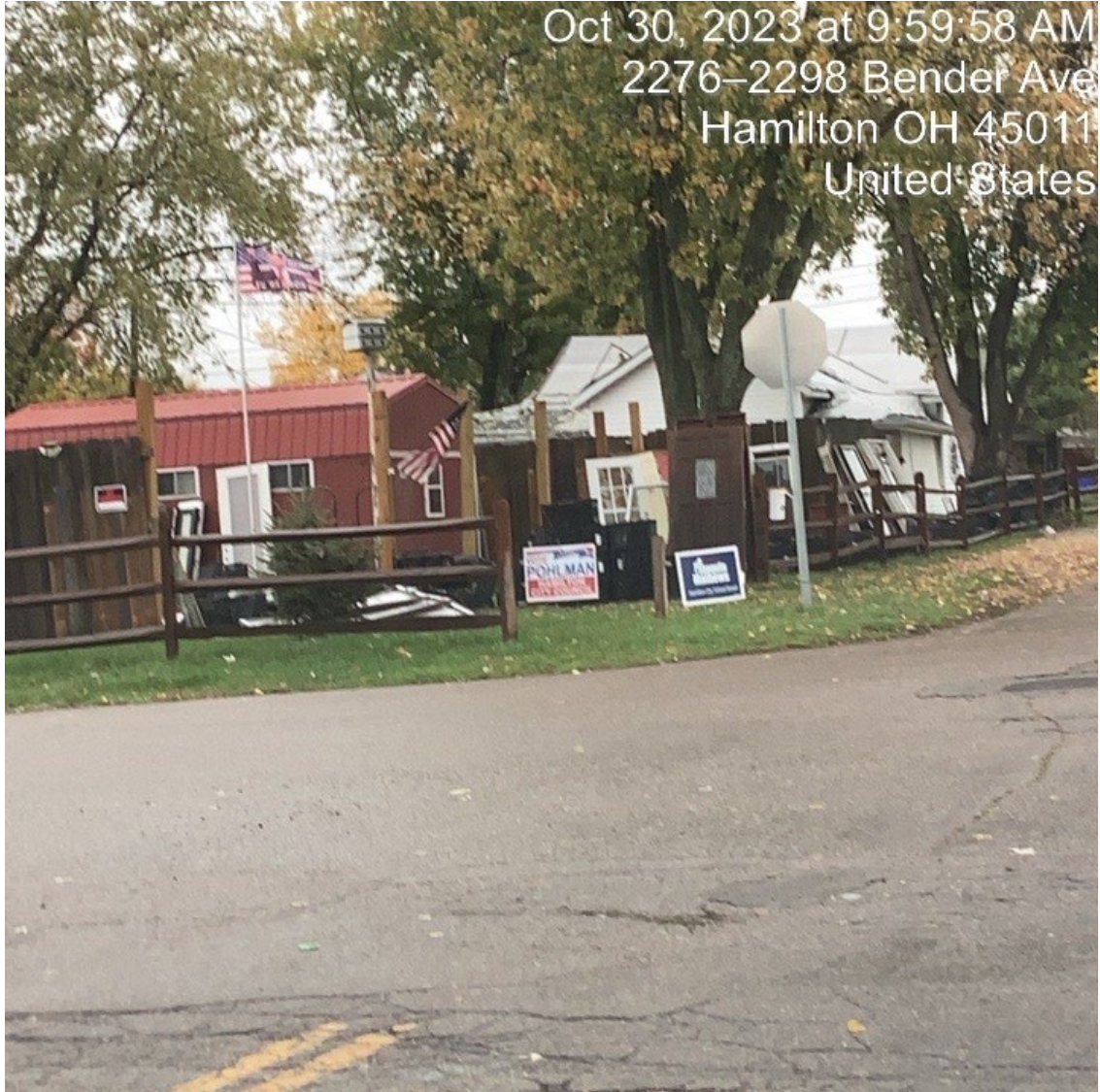
REPORT TO THE CITY OF HAMILTON BOARD OF ZONING APPEALS  
FOR MEETING DATE OF January 4, 2024  
BZA 2024-01-001



View of the fence along Bender Ave June 26



REPORT TO THE CITY OF HAMILTON BOARD OF ZONING APPEALS  
FOR MEETING DATE OF January 4, 2024  
BZA 2024-01-001



## **INSTRUCTIONS TO FILE AN APPLICATION FOR THE BOARD OF ZONING APPEALS**

The Hamilton Board of Zoning Appeals (BZA) hears appeals for variances from the Hamilton Zoning Ordinance (HZO) provisions.

An appeal shall be considered filed when the application is completed, signed and received by the Planning Department office along with all required information and fee.

Be sure to fill in all appropriate blanks on the application. All information should be typewritten or printed legibly in ink, and signed by the applicant or their authorized representative.

If sufficient space is not available on the form to provide information or answer a question, please attach 8 1/2" x 11" sheets to each copy and make specific reference to the question being answered.

Make certain that each page of information presented contains your name and the address and lot number of the property concerned. The Planning Department may waive the submission of any information not relevant to the hearing of the appeal.

If you wish to subpoena any witnesses, a written request should be made to the Chairman at least five (5) days before the scheduled hearing. You will have to pay all costs incurred to subpoena any witnesses.

The application should include:

- One **completed** appeal application
- One copy of plans no larger than 11" x 17" as submitted for zoning review
- One copy of all written supporting information

A fee of \$200.00 shall accompany each appeal for variance(s).

If applying to the BZA, the applicant, along with the owners of all property within 100 ft. of the property in question will be notified of the date, time and place of the public hearing.

### **HEARING PROCEDURE**

You, as the appellant, or your representative, should be present at the meeting in order to have the case considered.

- Planning Department Staff will present and explain the case.
- You, or your representative, may then present any information or testimony relevant to the appeal.
- The Board will then hear from any other interested parties.
- After considering all information presented, the Board will then render a decision.
- The Secretary will inform the appellant by letter as soon as possible of the decision of the Board. Such decisions shall not become final until the expiration of five (5) days from the date of the decision, unless the board shall certify otherwise.

*(Continued on Next Page)*

If you proceed with the project on the basis of the Board's decision or in accordance with the HZO, whichever applies, you must then submit to the Building Department proper drawings and specifications for the project to obtain the necessary building permits.

**NOTE:** No approval of the Board permitting erection or alteration of a building or use of a building or premises is valid longer than six (6) months unless a building permit for such erection or alteration is obtained and the work is started within such period. Or, where no erection or alteration is necessary, the permitted use is established within such period, or an extension is requested in writing and granted by the Board.

Copies of the Hamilton Zoning Ordinance (HZO) and zoning map are online at [hamilton-oh.gov/planning](http://hamilton-oh.gov/planning) (Planning Department) or may be obtained from the Planning Department office (345 High Street) for a fee of \$10.00 each.

**BOARD OF ZONING APPEALS**

(Variance to the City of Hamilton Zoning Ordinance)

**APPLICATION**

<b>Fees:</b>	
All Appeals to BZA	\$200.00
Appeal of ADRB Decision	no charge

Property Address: 2220 Bender Ave

Property Owner: CONNIE MEISTER

Owner's Mailing Address: 2220 Bender

Owner's Phone Contact: 513 663-3680

Appellant's Name (If different from owner): SCOTT MEISTER

Appellant's Mailing Address: 2220 ~~Bender~~ Bender

Appellant's Email Address: \_\_\_\_\_

Appellant's Phone Contact: 513-663-3680

Purpose of Application (Check all that apply):

- Requesting a variance from the Hamilton Zoning Ordinance (also required: fill out **Appellant's rational for requesting a Variance. See: Page 4**)

Most common variance requests:

- Fences                       Setbacks                       Signage
- Accessory Structures (shed, garage, etc.)

Other (please explain):

9FT FENCE AND 2 STORAGE BARN

- Appeal of Decision of Architectural Design Review Board, ADRB (see page 5)
- Appeal of Staff Interpretation of the Zoning Ordinance (see page 5)
- Substitution of Non-Conforming Use (see page 5)
- Temporary Use (see page 5)





v. Did the property owners purchase the property with the knowledge of the zoning restriction?

*No*

vi. Could the problem be solved in some other manner other than the granting of the Variance?

*No*

vii. Would the Variance preserve the spirit and intent of the zoning requirement and substantial justice be done by granting the variance?

**OTHER:** Please check the reason for the Application and Explain in the box below.

Substitution of Non-Conforming Use

Temporary Use

Appeal of Decision of Architectural Design Review Board

Appeal of Interpretation



## 2023 Hamilton Board of Zoning Appeals Meeting Calendar

The City of Hamilton Board of Zoning Appeals meets on the first Thursday of every month, except for scheduled City Holidays, at 9:00 a.m. in the City Council Chambers, One Renaissance Plaza, 1st Floor, 345 High Street, Hamilton, Ohio 45011.

<b>Meeting Date</b>	<b>Application Deadline</b>
January 5, 2023	December 15, 2022
February 2, 2023	January 12, 2023
March 3, 2023	February 9, 2023
April 6, 2023	March 16, 2023
May 5, 2023	April 13, 2023
June 1, 2023	May 11, 2023
July 6, 2023	June 15, 2023
August 3, 2023	July 13, 2023
September 7, 2023	August 17, 2023
October 5, 2023	September 14, 2023
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January 4, 2024	December 14, 2023
February 1, 2024	January 11, 2024



**VARIANCES**

**REQUIRED: Variance-Findings of the BZA:** No variance of the provisions or requirements of the Hamilton Zoning Ordinance shall be authorized by the BZA unless the BZA finds that practical difficulties exist sufficiently to warrant a variance. In making this determination the Board shall consider and weigh the following factors: Please address each item below in the space provided.

i. Will the property yield a reasonable return or can there be a beneficial use of the property without the Variance?

I live on property Fence protect me  
from people want hurt me  
I have video of people scream at me

ii. Is the Variance substantial?

I DONT UNDERSTAND

iii. Would the Variance cause a substantial alteration in the essential character of the neighborhood or cause a substantial detriment to the adjoining properties?

No

iv. Would the Variance adversely affect the delivery of governmental services?

NO



**CERTIFICATION:**

I certify that all of the information contained in this Application is complete, true and accurate.

Scott A Meister 12-11-23  
Appellant's Signature Date

Scott A Meister  
Appellant's Printed Name

Connie Meister 12-11-23  
Property Owner's Signature Date

Connie Meister  
Property Owner's Printed Name



## **INSTRUCTIONS TO FILE AN APPLICATION FOR THE BOARD OF ZONING APPEALS**

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If you wish to subpoena any witnesses, a written request should be made to the Chairman at least five (5) days before the scheduled hearing. You will have to pay all costs incurred to subpoena any witnesses.

The application should include:

- One **completed** appeal application
- One copy of plans no larger than 11" x 17" as submitted for zoning review
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A fee of \$200.00 shall accompany each appeal for variance(s).

If applying to the BZA, the applicant, along with the owners of all property within 100 ft. of the property in question will be notified of the date, time and place of the public hearing.

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You, as the appellant, or your representative, should be present at the meeting in order to have the case considered.

- Planning Department Staff will present and explain the case.
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- The Board will then hear from any other interested parties.
- After considering all information presented, the Board will then render a decision.
- The Secretary will inform the appellant by letter as soon as possible of the decision of the Board. Such decisions shall not become final until the expiration of five (5) days from the date of the decision, unless the board shall certify otherwise.

*(Continued on Next Page)*



**Planning Department**  
345 High Street, 3rd floor  
Hamilton, Ohio 45011

<b>Application Fee:</b> <b>\$200</b>
---

If you proceed with the project on the basis of the Board's decision or in accordance with the HZO, whichever applies, you must then submit to the Building Department proper drawings and specifications for the project to obtain the necessary building permits.

**NOTE:** No approval of the Board permitting erection or alteration of a building or use of a building or premises is valid longer than six (6) months unless a building permit for such erection or alteration is obtained and the work is started within such period. Or, where no erection or alteration is necessary, the permitted use is established within such period, or an extension is requested in writing and granted by the Board.

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Planning Department  
345 High Street, 3rd floor  
Hamilton, Ohio 45011

Application Fee:  
\$200

**BOARD OF ZONING APPEALS**  
(Variance to the City of Hamilton Zoning Ordinance)  
**APPLICATION**

Fees:	
All Appeals to BZA	\$200.00
Appeal of ADRB Decision	no charge

Property Address: 2220 Bender Ave

Property Owner: Connie Meister

Owner's Mailing Address: 2220 Bender

Owner's Phone Contact: 513 663-3680

Appellant's Name (if different from owner): Scott Meister

Appellant's Mailing Address: 2220 ~~Bender~~ Bender

Appellant's Email Address: \_\_\_\_\_

Appellant's Phone Contact: 513-663-3680

Purpose of Application (Check all that apply):

- Requesting a variance from the Hamilton Zoning Ordinance (also required: fill out **Appellant's rational for requesting a Variance. See: Page 4**)

Most common variance requests:

- Fences  Setbacks  Signage
- Accessory Structures (shed, garage, etc.)

Other (please explain):

9ft Fence AND 2 storage BARNs

- Appeal of Decision of Architectural Design Review Board, ADRB (see page 5)
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**Application Fee:**  
**\$200**

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- i. Will the property yield a reasonable return or can there be a beneficial use of the property without the Variance?

I live on property Fence protect me  
from people want hurt me  
I have video of people scream at me

I keep my stuff in things that I sell online, keep people  
from stealing it. + SAM

- ii. Is the Variance substantial?

I don't understand fence. NO THEY CAN REACH OVER  
2. YES. BUT I WOULD LIKE TO KEEP MY STRUCTURES + SAM

- iii. Would the Variance cause a substantial alteration in the essential character of the neighborhood or cause a substantial detriment to the adjoining properties?

NO

- iv. Would the Variance adversely affect the delivery of governmental services?

NO





**Application Fee:**  
**\$200**

v. Did the property owners purchase the property with the knowledge of the zoning restriction?

NO I WAS TOLD THE PROPERTY WAS A COMMERCIAL PROPERTY.  
XSAM

vi. Could the problem be solved in some other manner other than the granting of the Variance?

NO

vii. Would the Variance preserve the spirit and intent of the zoning requirement and substantial justice be done by granting the variance?

I WOULD LIKE TO KEEP MY FENCE 9 FEET.  
I WOULD LIKE TO KEEP TWO SHEDS. SAM

**OTHER:** Please check the reason for the Application and Explain in the box below.

Substitution of Non-Conforming Use

Temporary Use

~~Appeal of Decision of Architectural Design Review Board~~

Appeal of Interpretation

Empty box for explanation of other reasons for the application.



**Application Fee:**  
**\$200**

**CERTIFICATION:**

I certify that all of the information contained in this Application is complete, true and accurate.

Scott A Meister 12-11-23  
Appellant's Signature Date

Scott A Meister  
Appellant's Printed Name

Connie Meister 12-11-23  
Property Owner's Signature Date

Connie Meister  
Property Owner's Printed Name



**Planning Department**  
345 High Street, 3rd floor  
Hamilton, Ohio 45011

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December 7, 2023	November 16, 2023
January 4, 2024	December 14, 2023
February 1, 2024	January 11, 2024

**1830** Primary Entry and Porch: The primary entry of the residence shall face the primary street frontage. The primary entrance may face a side property line provided it opens onto a porch that fronts on the primary street along a minimum of 40% of its open perimeter.

**1831** Primary Entry of the residence will face the primary street frontage. The primary entrance may face the side property line provided it opens onto a porch that faces the primary street along a minimum of 40% of its open perimeter.

**1832** Stoops and Steps: Dwelling units without a porch will have a stone, masonry or concrete stoop or landing at the primary entrance with minimum dimensions of 4 feet wide by 3 feet deep.

**1833** Enclosure Prohibited: Front Porches shall not be enclosed beyond 50% of the exterior perimeter of said porch other than with approved mesh screening.

**1834** Open Space Beneath Porch Decks: Open areas beneath a front porch will be enclosed with the materials compatible to the exterior of the house.

**1840** Garages and Driveways

**1841** Side Entry Garages On lots 100-ft. or wider, attached garage entries will not face the primary street frontage on more than 40% of the homes in each phase of the subdivision. Garage entrances will be placed at a minimum angle of 45 degrees from the primary street.

**1842** Garage Frontage In all zoning districts attached garages entrances facing the primary street will not exceed 1/2 of the first floor building frontage unless the garage is setback a minimum of 2-ft. behind the forward edge of the house (not the forward edge of the porch).

**1843** Garage Protrusion Allowable first floor entries for attached garages that face the primary street at an angle less than 45 degrees will not protrude more than twelve feet beyond the forward most edge of the house or porch.

**1844** Three Bay Garage Entry Three bay or larger attached garages will not face the primary street at an angle of less than 45%, unless the third bay is setback a minimum of two feet behind the first two bays of the garage.

**1845** Detached Garages Detached Garages will be setback a minimum of five feet behind the front edge of the primary building.

**1846** Alley Access Where alleys exist or are proposed, garage access will be from the alley.

**1847** Driveway Width That part of residential driveways within the required frontyard setback will not exceed the lesser of 30-ft. in width or 1/3 of the lot frontage on the street they access.

**1848** Curb Cuts Only one curb cut for a drive way will be allowed per property street frontage unless otherwise authorized by the Public Work Department.

**1849** Side Entry Driveways Any new driveway or parking space or addition thereto will be setback a minimum of 5-ft. from any side property line. Driveways for side entry garages may be setback a minimum of 3-ft. from the side property line for the width of the garage.

APPLICABLE TO  
RELAX BY  
BY MAY 2024



Planning Department  
345 High Street, 3rd floor  
Hamilton, Ohio 45011

**ZONING ORDINANCE – LOTS, HEIGHTS, SETBACKS CHART**  
**(Lot Areas/Coverage, Building Heights, Yards)**

**1504 Side Yards and Lot Coverage - Narrow Lot Provisions**

Special Setback Provisions for lots with a width of 55 feet or less.

LOT WIDTHS: (Narrow Lots)	Side Yards Least Width on a Narrow Lot	Side Yards Sum Of Least Width on a Narrow Lot	Size of a Detached Garage on a Narrow Lot	Maximum Lot Area Coverage on a Narrow Lot
Lots 45-54 feet wide	4 feet	12 feet	See Accessory Building chart	35%
Lots 36-44 feet wide	3 feet	11 feet	24 feet length 20 feet width	45%
Lots 35 feet wide or less	3 feet	8 feet	24 feet length 15 feet width	50%

*APPLICANT WILL NOT BE REQUIRED TO FENCE FRONT EDGES OF LOTS.*

*APPLICANT TO TAKE DOWN SIDE "DOG KENNEL" ALONG FRONT ALLE WAY*

**1505 Fences**

Fence regulations 12, 13

TYPE OF USE	Front Yard Fence Height	Side Yard and Rear Yard Fence Height <small>14, 15, 16</small>
Agricultural Use (fences)	8 feet	8 feet
Residential Uses (fences)	3 feet, 6 inches	6 feet
Business & Non-Residential Uses (fences)	3 feet, 6 inches	8 feet
Industrial Uses (fences)	8 feet	8 feet
Narrow Corner Lot Provision (residential properties): Lots on a street corner 55 feet in width or less (fences)	3 feet, 6 inches	6 feet <sup>17</sup>
Corner Lots and Lots with Multiple Frontages	3 feet, 6 inches	4 feet (side yard – outside of primary front yard setback), 6 feet (rear yard) <sup>18</sup>

<sup>12</sup> Fences can be located on the property line. However, the Planning Department does not verify property lines.  
<sup>13</sup> Fences must adhere to the conditions of Section 1400, Accessory Uses [Sections: 1412, 1413, 1414]  
<sup>14</sup> Privacy fences may only extend up to the front edge of the house.  
<sup>15</sup> Privacy fence on a corner lot may only extend to the secondary frontage equal to half (1/2) of the front yard setback.  
<sup>16</sup> Fences taller than six (6) feet require a building permit

<sup>17</sup> Corner Lots less than fifty-four (54) feet at the front yard setback can have a zero foot setback on the secondary front street for fences, maximum height of six (6) feet. Such fence shall not be permitted to project beyond the front line of the primary building on the property.  
<sup>18</sup> For properties with multiple frontages, fences are limited to a height of forty-eight inches (4 feet) on secondary frontages provided that they meet the sight clearance regulations of Section 1530 and is not located in the primary front yard setback.

- Table of Contents
- Glossary
- Zoning Districts
- Permitted Use Chart
- Special Provisions
- PD Regs
- Administration



Board of Zoning Appeals  
December 7, 2023 @ 9:00am  
Council Chambers  
First Floor, 345 High Street  
Hamilton, Ohio 45011

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Members in Attendance: Andrew J. Schweier, Staff; Mrs. Karen Underwood Kramer, Chair; Mr. Samy Broyles, Vice Chair; Mr. Matt Von Stein, Member; Mrs. Arnita Gunn, Member.  
Mrs. Underwood Kramer performed the swearing in of witnesses.

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Conflict of Interest Statement was read onto the record. Mr. Broyles made a motion in regards to the Conflict of Interest statement which was seconded by Mr. Von Stein and passed with no conflicts noted.

Agenda Item #3:

BZA 2023-12-013: Variance Requests for 1184 Allen

Staff requested that this item be tabled. Staff advised that as the request progressed, the variances were changing. Staff determined that moving forward at the current time was not appropriate.

Motion:

Mr. Von Stein made a motion to table BZA 2023-12-013 until January 2023. Mrs. Gunn seconded the motion.

Motion was approved by roll call vote:

Von Stein	Yes
Gunn	Yes
Rueter	Yes
Broyles	Yes
Kramer	Yes

Agenda Item #1:

BZA 2023-12-011: Variance Requests for 1499 Main Street-Bubbakoos Burritos.

Variance Request 1: Section 1701.1 J Window signs provided that no more than 25 percent of the total tenant's window area on each building façade is covered. East Elevation

Variance Request 2: Section 1905(B1) Façade Transparency Dark tinted glass beyond 35% darkening or glass manufactured to reflect light shall not be permitted. East Elevation

Variance Request 3: Section 1701.1 J Window signs provided that no more than 25 percent of the total tenant's window area on each building façade is covered. North Elevation

Variance Request 4: Section 1905(B1) Façade Transparency Dark tinted glass beyond 35% darkening or glass manufactured to reflect light shall not be permitted. North Elevation

Staff report presented by Andrew J. Schweier.

Jane Fiehrer, 90 Compark Rd, Dayton, OH – Representative from the sign company working with Bubbakoo's Burritos. She is familiar with the zoning codes in various communities. Bubbakoos has an unusual situation and the zoning code is not always conducive for unique circumstances. The side of Bubbakoos facing Main St. is back of business and is the main area for storage. She was under the impression that the solid background did not count toward signage. The window graphics are covering the storage area of the business. The graphics on Bubbakoos have been done professionally and look very nice. The graphics are there to disguise the clutter from the back of business storage. The graphics aren't a detriment to the neighborhood, and the applicant believes the graphics contribute to the improvement of the neighborhood. Bubbakoos does not have interest in spending more money to change the graphic designs. Removing the sign will expose the back storage area and blinds aren't an option. Bubbakoos does not believe a 70% window tint will effectively block the storage area and it would be an additional expense to the business owner.

Mr. Von Stein made a motion to close the public hearing.

Mr. Broyles seconded the motion.

Motion Passed by unanimous Roll Call vote

#### Board Discussion:

Mr. Rueter – Stated that he thinks the ball was dropped somewhere along the lines with communication between the city and Bubbakoos. He stated that he believes there is a way for Bubbakoos to comply with the sign code and grant a variance for tint/transparency to allow for some disguising of the back of business.

Mr. Schweier – Let the Board know that staff did propose another option to allow 100% tint with the condition that the top row of windows would not be considered for window signage and that they remain 100% transparent.

Mr. Broyles – Stated that conversation between Planning Staff and Bubbakoos did take place prior to the signs going up. He is in favor of denying the variance and allow the 100% tint option.

Mrs. Underwood-Kramer – As a business owner, she has spent money on signage. When working with sign companies, her experience is that they look into the community's sign code and pull the appropriate permits. Businesses need to comply with the City's code.

Mrs. Gunn – Leans toward denying the variance and, given the uniqueness of the business, thinks that an increased tint seems appropriate for the entire building.

#### Motion:

Mr. Broyles made a motion to deny the variance request. Amend and approve an increase of dark tinted glass from 35% to 70% for the North Elevation and East of the building. Mr. Von Stein seconded the motion.

Motion was approved by roll call vote:

Broyles	Yes
Von Stein	Yes
Rueter	Yes
Gunn	Yes
Kramer	Yes

Agenda Item #2:

BZA 2023-12-012: Variance Requests for 604 High Street-Fringe Coffee

Variance Request 1: Section 1707.1(B) Sign Setbacks: The minimum setback for all monument signs is five (5') feet from all property lines. If due to the location of buildings, the front yard setback of five feet cannot be met; a projecting wall sign may be used in lieu of a monument sign in accordance with Section 1707.3. All monument signs shall be placed outside of the sight clearance triangle as defined herein.

Staff report presented by Andrew J. Schweier.

Steve Martin, 4127 Tonya Trail – stated that the purpose of the sign proposal is to provide better visibility for the Fringe Coffee House.

Mr. Von Stein Motion to close the public hearing.

Mr. Broyles seconded the motion.

Motion Passed by unanimous Roll Call vote

Board Discussion:

Mr. Broyles: This is a reasonable request.

Mrs. Kramer: With a zero foot setback, where else are they going to go? This is what variances were meant for.

Mr. Rueter: The brick issue as well (as the zero foot setback)

Motion:

Mr. Broyles made a motion to approve the Variance as requested with conditions noted by Staff.

Mr. Von Stein seconded the motion.

Motion was approved by roll call vote:

Broyles	Yes
Von Stein	Yes
Rueter	Yes
Gunn	Yes
Kramer	Yes



Staff requested a motion to approve the minutes from the November meeting.  
Motion to approve the November meeting minutes:  
Von Stein 1st, Gunn 2<sup>nd</sup>. Minutes were approved by unanimous roll call vote.

Staff requested a motion to approve Notice of Decision 2023-09-008  
Motion to approve - Von Stein 1st, Gunn 2<sup>nd</sup>. Motion was approved by unanimous roll call vote.

Staff requested the Board to make a determination for the July meeting, as the meeting was scheduled for July 4<sup>th</sup>. Board determined to cancel the meeting. Board determined if a meeting was needed, the Board would consider a special meeting.

Meeting Adjourned



BZA CASE 2023-12-011

Notice of Decision and Resolution: To Approve   
To Deny

A public hearing was held by the City of Hamilton Board of Zoning Appeals on Thursday, December 7, 2023 at 9:00am on the following application:

Applicant: Jane Fiehrer

Owner: Bubbakoo's Burritos

Request: Variance

Description: The applicant is requesting four (4) variances:

**Variance Request 1:** East Elevation: Section 1701.1 J Exempt Signs-Window signs provided that no more than 25 percent of the total tenant's window area on each building façade is covered.

**Variance Request 2:** East Elevation: Section 1905(B1) Façade Transparency Dark tinted glass beyond 35% darkening or glass manufactured to reflect light shall not be permitted.

**Variance Request 3:** North Elevation: Section 1701.1 J Exempt Signs-Window signs provided that no more than 25 percent of the total tenant's window area on each building façade is covered.

**Variance Request 4:** North Elevation: Section 1905(B1) Façade Transparency Dark tinted glass beyond 35% darkening or glass manufactured to reflect light shall not be permitted.

Location: 1499 Main Street, Parcel #P6600046000014

Zoning: B-2 Community Business District.

**Decision:** After the hearing, the Board deliberated on the above application and DENIED the variance requests under Section(s) 1701.1 J Exempt Signs-Window signs and 1905(B1) Façade Transparency. The Board allowed the previously approved East elevation wall sign to be used as a window sign not to exceed 96.93 sq ft. The Board also allowed the Transparency to increase from 35% tint to 70% tint for the North elevation and East elevation.

**Findings of Fact:**



1. The Board did not find a hardship and found that there were alternatives to the Transparency requirements on the North and East elevations. The Board further found that no hardship existed that the Applicant could not comply with Section 1701.1 J on the North elevation.

**Conclusions of Law:**

The requests do not meet the criteria for a hardship. The Applicant is able to comply with Zoning Ordinance.

Upon call of the roll to **DENY** the variance resulted as follows:

Motion:	Mr. Broyles	Yes
Second:	Mr. Von Stein	Yes
	Mr. Reuter	Yes
	Mrs. Gunn	Yes
	Mrs. Kramer	Yes

The motion carried and the variance was denied

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Karen Underwood Kramer, Chairperson

**CERTIFICATION**

I, Andrew J. Schweier, Secretary of the City of Hamilton Board of Zoning Appeals, do hereby certify that the forgoing is a true and accurate record of the action taken by the City of Hamilton Board of Zoning Appeals on the above referenced application.

Effective Date: January 6, 2024

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Andrew J. Schweier, Secretary



BZA CASE 2023-12-012

Notice of Decision and Resolution: To Approve X\_\_\_  
To Deny \_\_\_\_\_

A public hearing was held by the City of Hamilton Board of Zoning Appeals on Thursday, December 7, 2023 at 9:00am on the following application:

Applicant: Steve Martin

Owner: Fringe Industries/ Fringe Coffee

Request: Variance

Description: The applicant is requesting one (1) variances: Section 1707.1(B) Sign Setbacks: The minimum setback for all monument signs is five (5') feet from all property lines. If due to the location of buildings, the front yard setback of five feet cannot be met; a projecting wall sign may be used in lieu of a monument sign in accordance with Section 1707.3. All monument signs shall be placed outside of the sight clearance triangle as defined herein.

Location: 604 High Street, Parcel # P6441011000041

Zoning: DT-3, Downtown East High Street Zoning District

**Decision:** After the hearing, the Board deliberated on the above application and approved the variance request under Section 1707.1(B) Sign Setbacks: The minimum setback for all monument signs is five (5') feet from all property lines. If due to the location of buildings, the front yard setback of five feet cannot be met; a projecting wall sign may be used in lieu of a monument sign in accordance with Section 1707.3. All monument signs shall be placed outside of the sight clearance triangle as defined herein.

**Findings of Fact:**

1. The Board found that a hardship did exist in the fact that the subject building was built with a zero foot setback and prior to setbacks being established.
2. The Board further found that the age of the building and condition of brick prevents the applicant from using a projecting wall sign.
3. The Board determined that the matter could not be resolved in another manner



**Conclusions of Law:**

The Board made a motion to approve the variance based upon the above noted hardships

Upon call of the roll to **APPROVE** the variance resulted as follows:

Motion:	Mr. Broyles	Yes
Second:	Mr. Von Stein	Yes
	Mr. Reuter	Yes
	Mrs. Gunn	Yes
	Mrs. Kramer	Yes

The motion carried and the variance was denied

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Karen Underwood Kramer, Chairperson

**CERTIFICATION**

I, Andrew J. Schweier, Secretary of the City of Hamilton Board of Zoning Appeals, do hereby certify that the forgoing is a true and accurate record of the action taken by the City of Hamilton Board of Zoning Appeals on the above referenced application.

Effective Date: January 6, 2024

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Andrew J. Schweier, Secretary