

Karen Underwood-Kramer
 Chairperson

Nancy Bushman
 Board Member

Desmond Maaytah
 Board Member

George Jonson
 Board Member

Michael Samoviski
 Board Member

Roll Call: **2 Public Hearings**

Bushman	Jonson	Maaytah	Underwood-Kramer	SAMOVISKI

Appointment of Chairperson:

Swearing in of Those Providing Testimony to the BZA: City Staff

Old Business: None

New Business:

Agenda Item #1

2016-03: Variance Request 15 Hermay Drive

A Request by Mr. Tim Crane for two (2) zoning variances in order to construct an accessory building on his property, zoned R-1 Residential District, located at 15 Hermay Drive. The requested zoning variances to Section 1110.26 and Section 1115.43.1 of the Hamilton Zoning Ordinance are as follows:

- 1) A request to alter the required exterior finish material on an accessory building where 50% brick is required, and
- 2) A request for a one foot variance to the Maximum height of an accessory building to allow a 16 foot height where there is a maximum of 15 feet is permitted. (Tim Crane, Applicant/Owner).

Staff: Meredith Murphy

Bushman	Jonson	Maaytah	Underwood-Kramer	SAMOVISKI

Agenda Item #2

2016-04: Variance Request 735 South Erie Blvd.

A Request by Mr. Allen Loudly for a minimum lot area zoning variance in order to establish an Automobile Service and Minor Repair Facility, on property zoned B-2 Community Business District, located at 735 South Erie Blvd. The requested zoning variance is for Section 1121.39.26 of the Hamilton Zoning Ordinance as follows:



- 1) A request to reduce the minimum lot area required for an Automobile Service and Minor Repair facility – the minimum lot area required is 20,000 square feet - the subject property is approximately 10,860 square feet. (Allen Loudly, Applicant/Owner).

Staff: Meredith Murphy

Bushman	Jonson	Maaytah	Underwood-Kramer	SAMOVISKI

Miscellaneous:

Adjournment:





To: Board of Zoning Appeals
From: Meredith Murphy
Subject: **AGENDA ITEM #1**

2016-3-Variance

Request by Mr. Tim Crane for two (2) zoning variances in order to construct an accessory building on his property, zoned R-1 Residential District, located at 15 Hermay Drive. The requested zoning variances are to Section 1110.26 and Section 1115.43.1 (Tim Crane, Owner).

Date: March 3, 2016

Dear BZA Members:

Introduction:

An application has been submitted regarding two (2) Zoning Variances to construct a new accessory building at 15 Hermay Drive. This property is approximately half an acre and is located in an R-1 Single Family Residence District (see attached Zoning map – Exhibit B) and is regulated by Section 1115.00 and Section 1110.00 of the Hamilton Zoning Ordinance (HZO). Mr. Crane is seeking a variance to the requirements of the zoning ordinance in order to construct a new accessory building. The following are the two (2) sections to which the applicants are requesting relief; Section 1110.26 regulates the exterior finish of an accessory structure, and Section 1115.43.1 regulates the maximum height accessory structure. Mr. Crane is seeking a variance to the requirements of the zoning ordinance in order to construct a new Storage barn to be located behind the house. The proposed shed will be a total of twenty two (22) feet by twenty four (24) feet totaling five hundred and twenty eight (528) square feet.

Section 1110.26 states that “Accessory buildings over 200-sq. ft. in area must have the same exterior finish material on a minimum of fifty (50) % of all sides as the primary exterior material and approximate color as the front of the existing primary building.” Mr. Crane is proposing wood siding on the proposed structure. Mr. Crane’s home is brick, therefore a variance is needed.

Section 1115.43.1 states that “Height: One story to a maximum of fifteen (15) feet.” Mr. Crane is proposing to build a storage barn with a height of sixteen (16) feet, which is one (1) foot over the fifteen (15) foot maximum.

Zoning Variance Review

In order to grant a zoning variance, the Hamilton Zoning Ordinance “Section 1170.63 Variances -Findings of the Board” requires that the BZA must find all four of the following facts and conditions below exist beyond a reasonable doubt. The applicant



included the following written rationale (*in bold italics*) for the two (2) requested zoning variances. Information/commentary for the BZA to consider is underlined.

1. **1170.63.1 Exceptional Circumstances:** That there are exceptional or extraordinary circumstances or conditions applying only to the property in question that do not apply generally to other properties in the same Zoning District.

The applicant stated that “***House is brick. It is not practical to have a brick shed.***” After reviewing the application there appears to be Exceptional Circumstances (Section 1170.63.1) associated with this request. The lot is heavily wooded and the proposed storage shed would be sixty eight (68) feet setback from the rear of the house. It would also be twenty two (22) feet from the south eastern property line and eighteen (18) feet from the north western property line. The rear of the property also has a creek that runs behind it and backs up to a railroad.

2. **1170.63.2 Preservation of Property Rights:** That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same Zoning District and the in same vicinity.

The applicant stated that “***It is permitted to have one storage shed on property.***” After reviewing the application it appears that the request is a Preservation of Property rights (Section 1170.63.2). As the applicant states he is permitted to have one accessory structure, but due to the existing siding on his house and the height of the model storage shed he is not able to construct this storage barn without a variance.

3. **1170.63.3 Absence of Detriment:** That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this Ordinance of the public interest.

The applicant stated that “***It won't impact my neighbors. It will enhance the value of the property.***” After reviewing the application it appears that the request has an Absence of Detriment (Section 1170.63.3). As stated previously the lot is heavily wooded and the proposed storage shed would be sixty eight (68) feet setback from the rear of the house. It would also be twenty two (22) feet from the south eastern property line and eighteen (18) feet from the north western property line. The rear of the property also has a creek that runs behind it and backs up to a railroad. The applicant has neighbors on either side of the property along Hermay, but the shed will be located in backyard at a lower elevation then Mr. Cranes house and the neighboring houses.



4. **1170.63.4 Not of a General Nature:** No grant of a variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property for which the variance is sought is not of general or recurrent nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

The applicant stated that “***not possible to build shed with brick.***” After reviewing the application it appears that the request is Not of a General Nature (Section 1170.63.4). As stated previously the lot is heavily wooded on a slope. Also the siding of the house is brick- which is not a material that sheds or outbuildings normally are built with.

Recommendation:

Based on a review of the information submitted, there is reason to consider approving the two (2) requested variances with the following conditions:

If the BZA approves the request for a Variance, the Department of Community Development requests that the BZA consider the following conditions of approval:

- 1) The construction drawings for the proposed improvements and work be revised subject to any future review requirements of the City of Hamilton Interdepartmental Review (IDR) Committee.
- 2) All improvements and work indicated on construction plans approved by the IDR be installed and maintained in good repair and replaced as necessary to remain in compliance with the approved Variance.
- 3) Findings for Granting of Variance:
 1. Exceptional Circumstances: There are exceptional or extraordinary circumstances or conditions applying to the subject property that do not apply generally to other properties in the same Zoning District.
 2. Preservation of Property Rights: Such a variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same Zoning District and in the same vicinity.
 3. Absence of Detriment: By authorizing this variance there will not be substantial detriment to adjacent property, and the variance will not materially impair the purposes of this Ordinance of the public interest.
 4. Not of General Nature: By the granting of this variance there is no condition or situation of the specific piece of property for which the variance is sought that is so general or recurrent in nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.



Notification

Public Hearing Notices were mailed to the owners of eight (8) properties within 100 feet of the property in question. At the time this report was written, were no objections expressed to the proposed zoning variances.

Attachments:

- 1) Exhibit A - Public Hearing Location Map
- 2) Exhibit B – Zoning Map
- 3) Exhibit C – Variance Application & Supporting Material

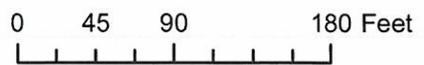


15 HERMAY DRIVE
PUBLIC HEARING MAP

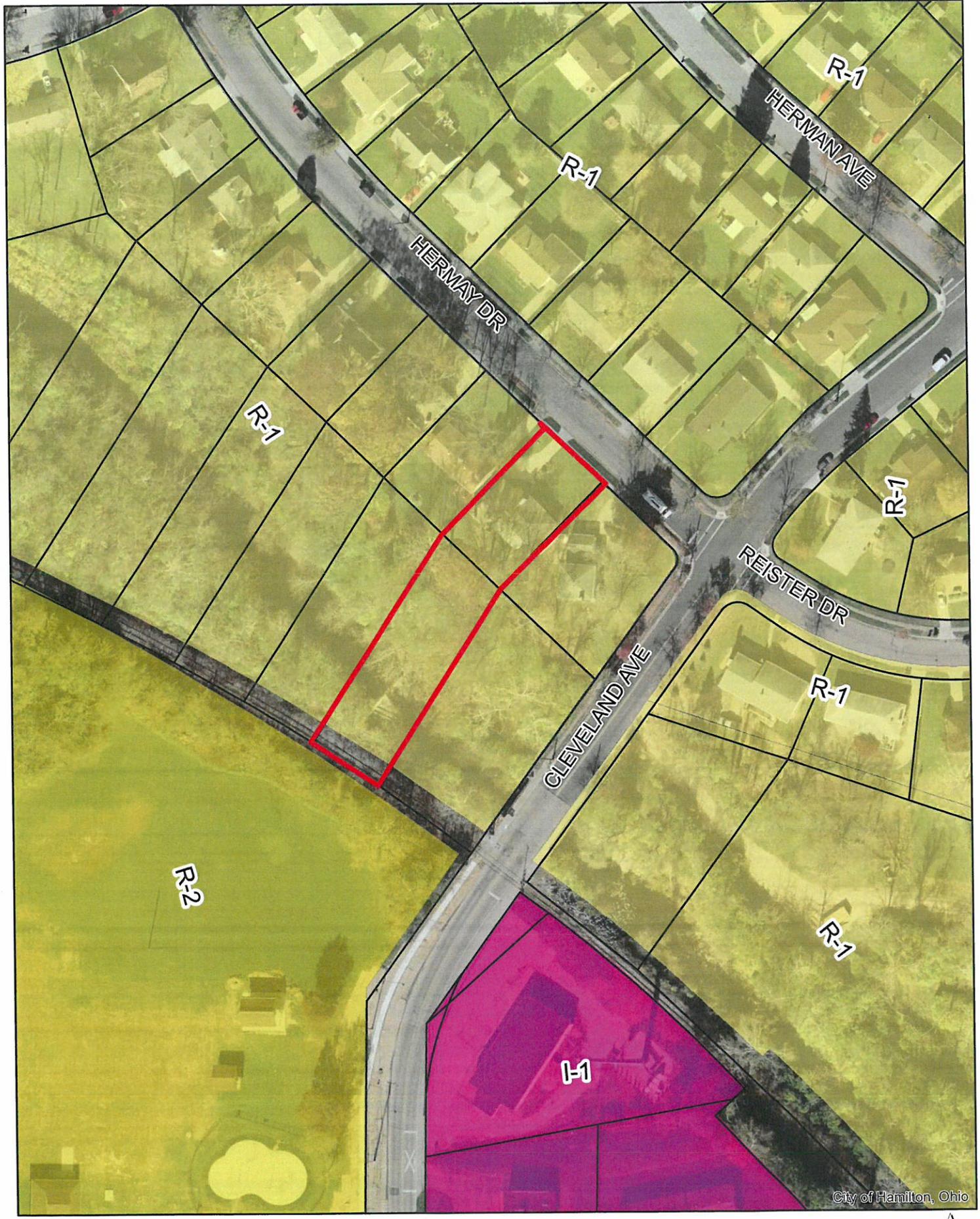


City of Hamilton, Ohio

 15 Hermay Drive

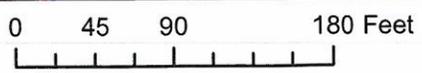


15 HERMAY DRIVE
PUBLIC HEARING MAP



City of Hamilton, Ohio

 15 Hermay Drive



Application # A 160147
Approval # A 160148



BOARD OF ZONING APPEALS APPLICATION

Property Address: 15 HERMAY DR.

Lot No(s): _____

Property Owner: TIM & LISA CRANE

Owner's Mailing Address: _____

Appellant's Name (If different than owner): _____

Appellant's Mailing Address: TIM.CRANE 57@gmail.com

Appellant's Email Address: (513) 476-3049

Previous Legal Use of Property: _____

Date Previous Use Discontinued: _____

Proposed New Use of Property: _____

Purpose of Application (Check all that apply):

- Requesting a variance for signs. Please describe the request bellow.

- Requesting a variance other than a sign from the following Sections of the Hamilton Zoning Code (also fill out **Appellant's rational for requesting a Variance**)
FOR STORAGE SITES
Siding MATERIAL & HEIGHTS

- Other – Skip to "Other" Section of Application Form

City of Hamilton
 Date: 2/2/2016
 Office: CNST
 Acct #: 300629
 Cashier: Consus
 Name: _____
 Ref: pt # 00786318
 Payment Total: \$200.00
 2/1/2016 4:43:20 PM
 Credit Card Entered: \$200.00

VARIANCES

Appellant's Rationale for requesting a Variance:

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, beyond reasonable doubt, that all of the following facts and conditions exist. **Please address each condition below in the space provided.**

Exceptional Circumstances: That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same Zoning District.

HOUSE IS BRICK. NOT PRACTICAL TO HAVE
BRICK SHED.

Preservation of Property Rights: That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same Zoning District and in the same vicinity.

PERMITTED TO HAVE 1 STABLE SHED ON PROPERTY?

Absence of Detriment: That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this Ordinance of the public interest.

WON'T IMPACT MY NEIGHBORS. IT WILL ENHANCE
THE VALUE OF THE PROPERTY

Not of General Nature: No grant of variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property for which variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

Not possible to build shed with bricks.

OTHER: Please check the reason for the Application and Explain.

- Substitution of Non-Conforming Use Temporary Use
 Appeal of Decision of Architectural Design Review Board Appeal of Interpretation

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

Tim Crane
Property Owner's Signature

8/1/16
Date

TIM CRANE
Property Owner's Printed Name

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• 16' Hi-Loft

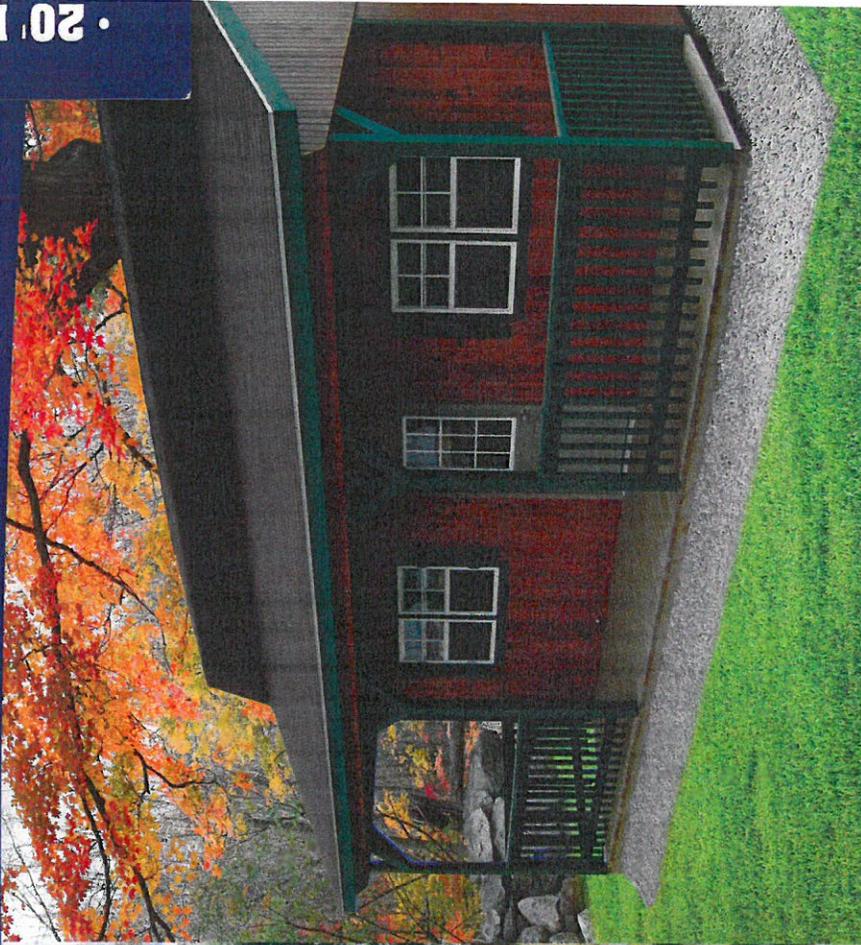


▲16x24

- Adding to the features of the Barn Styles and Hi-Wall Barns, the 16' Hi-Loft Barns feature:
- 2x6 T&G treated floor
 - 8' tall sidewalls
 - 2x12 top wall plates
 - 2x6 roof trusses
 - 2x6 fascia
 - One steel entry door
 - One set double wood doors
 - Full loft
 - Stairway with landing
 - Full ridge vent
 - 6'6" loft height
 - 16'2" build height
- Garage door and windows optional

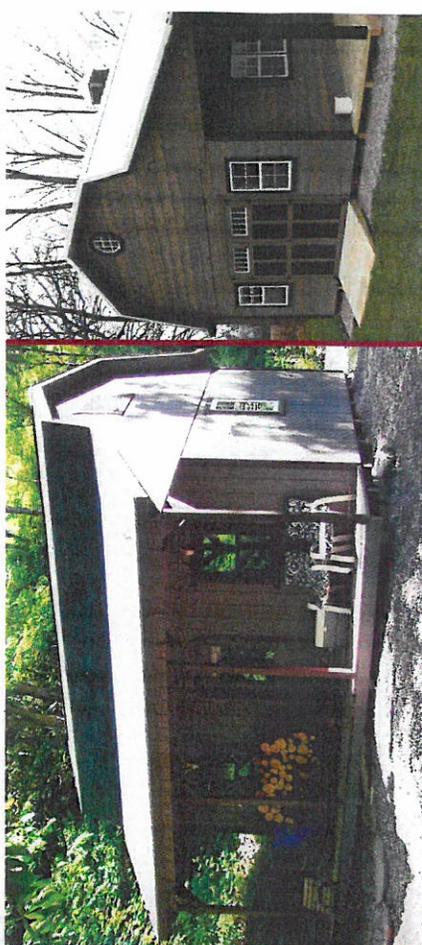


• 16' Hi-Loft with



▲16x24

The 16' wide Hi-Loft Barns are constructed with the same features used in the 16' Hi-Loft Barns, with the addition of a 6' porch. Lofts are constructed with 2x10 joists and 3/4" plywood. Windows, garage doors, cupolas, loft doors, and railing are optional.



About Our Company

Our company had its humble beginnings in 1979 as a one man owner-operator business, offering a limited selection of quality storage barns. Throughout the years, our company has kept growing, and has expanded the selection of barns offered, while making every effort to maintain the same high standard of excellence upon which our company was founded. Customer satisfaction has been and will remain our goal as a company.

FLOORING

Treated Flooring

Clabo's uses a high quality 2x6 tongue and groove treated flooring. Day in and day out, no 2" treated floor will outperform ours. Ask for a demonstration on the integrity of our floor, even with the commonly occurring shrinkage of real wood. Plus - our floors are constructed using No. 1 Flooring, as well as 3" ring shank galvanized spikes for superior strength and durability.



Dare to compare.

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WOOD OR VINYL SIDING OPTIONS

Standard and Special

L.P. Smart Siding *

A premium appearance inside and out. L.P. has taken the quality of wood siding to the next level. Not only is it unsurpassed in texture and beauty, L.P. Smart Siding is also treated against fungal decay and termites. Compare the interior appearance to other wood sidings. You will enjoy the beauty and longevity of L.P. Smart Siding. Last but not least, it is backed by a 50 year limited warranty.

Deluxe

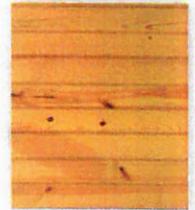
1x8 Tongue and Groove pine siding is great for natural or semi-transparent staining. Can be installed vertically or horizontally



1x6 log siding available as an option. Add 10% to Deluxe Price



NARROW SIDE HORIZONTAL



WIDE SIDE HORIZONTAL

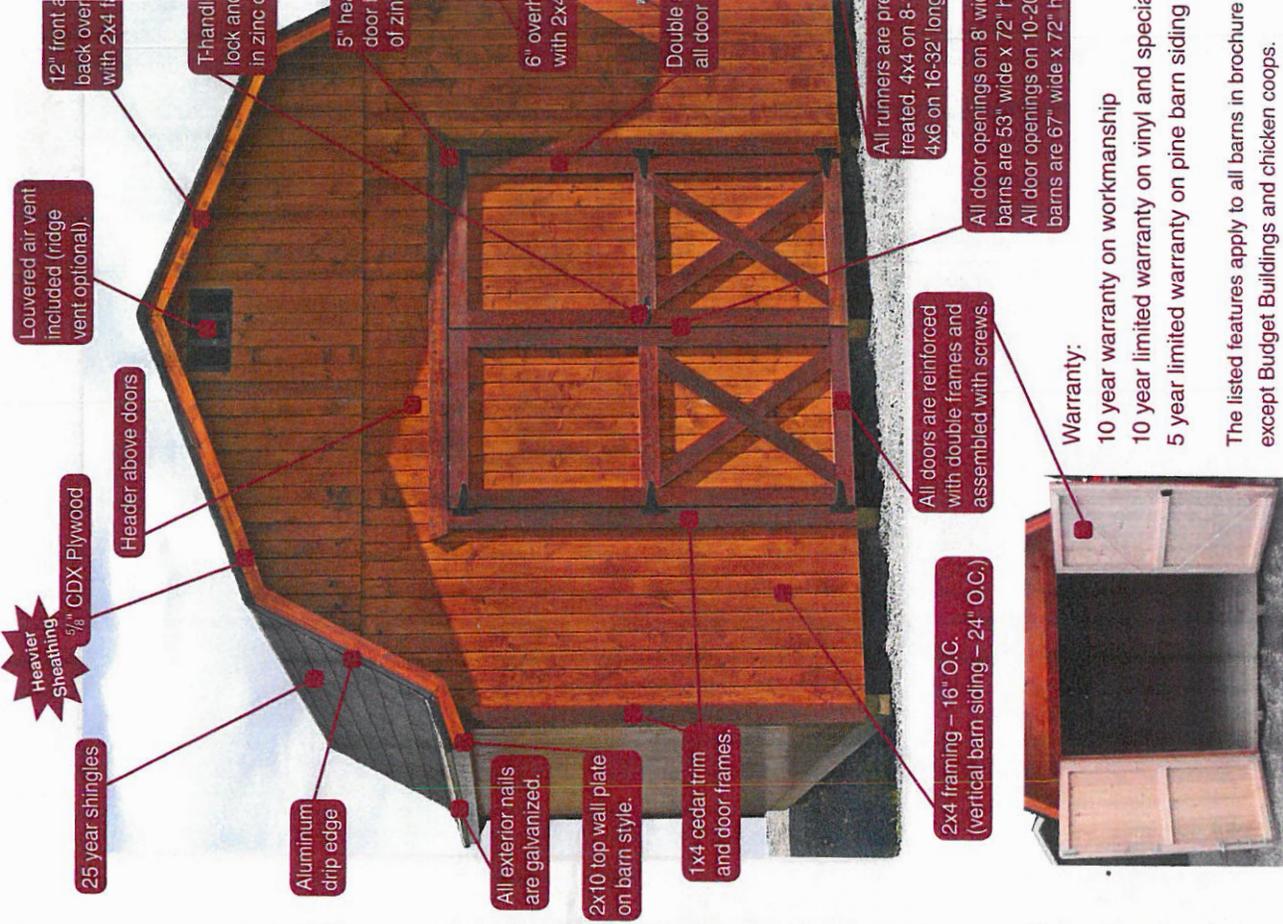


WIDE SIDE VERTICAL

ROOF SHEATHING

5/8" CDX Plywood is standard in each series excluding Budget Barns. A heavier, more durable sheath-

Vinyl siding gives you a top of the line maintenance free building.



- 12" front back over with 2x4 f
- T-hand lock and in zinc c
- 5" he door of zin
- 6" overf with 2x4
- Double all door
- All runners are pre treated. 4x4 on 8-4x6 on 16-32' long
- All door openings on 8' wide barns are 53" wide x 72" h
- All door openings on 10-20' barns are 67" wide x 72" h
- Warranty: 10 year warranty on workmanship 10 year limited warranty on vinyl and special 5 year limited warranty on pine barn siding
- The listed features apply to all barns in brochure except Budget Buildings and chicken coops.

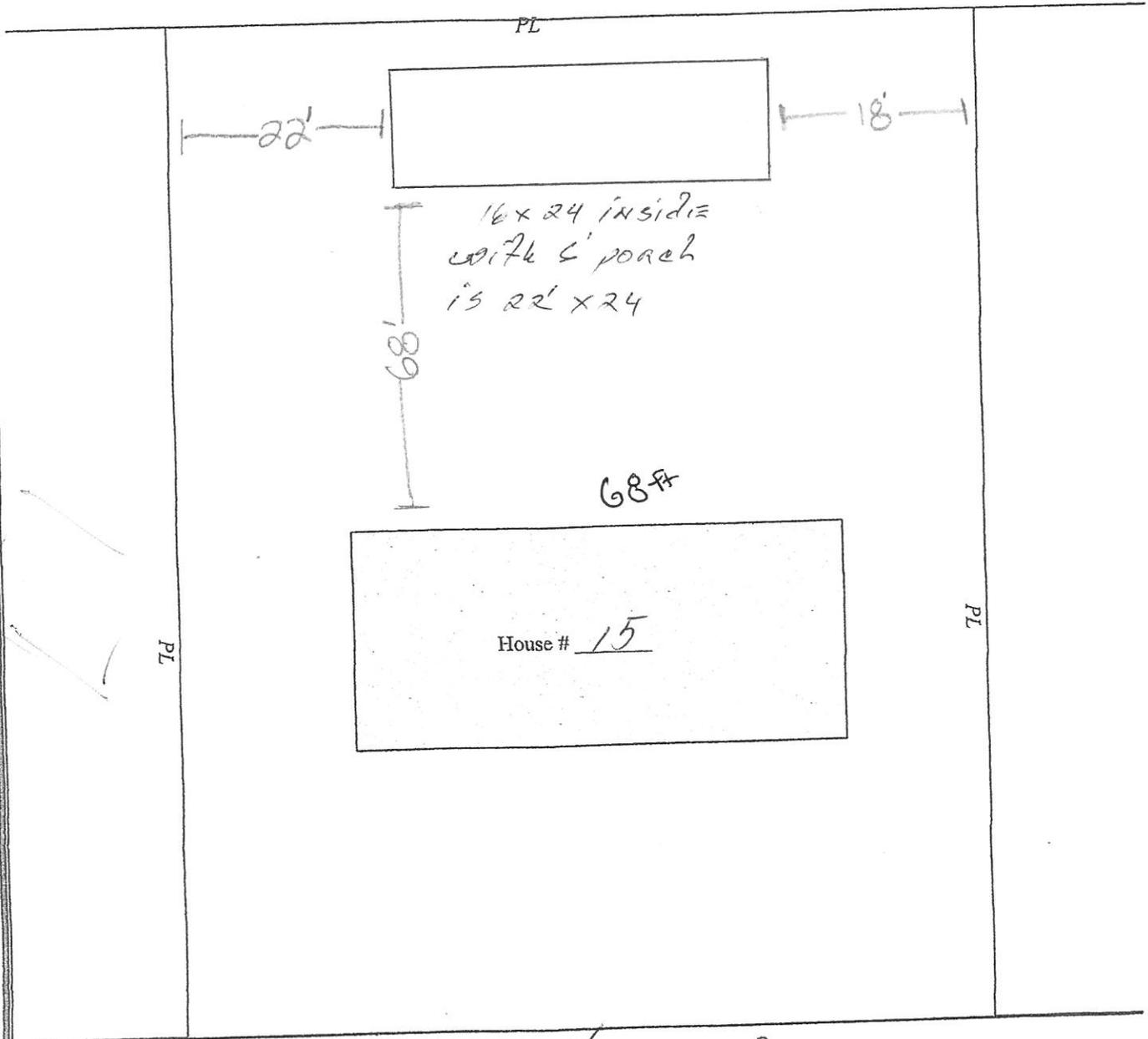
- Louvered air vent included (ridge vent optional).
- Header above doors
- Heavier Sheathing 5/8" CDX Plywood
- 25 year shingles
- Aluminum drip edge
- All exterior nails are galvanized.
- 2x10 top wall plate on barn style.
- 1x4 cedar trim and door frames.
- 2x4 framing - 16" O.C. (vertical barn siding - 24" O.C.)
- All doors are reinforced with double frames and assembled with screws.



Pre-Built or Built on Site

- 8' and 10' wide buildings are normally delivered completely assembled to your prepared site, but be built on site with no additional charge. **Note: Site must be truck-trailer accessible.**
- 12' through 16' wide buildings are assembled on your prepared site. **Note: A narrow ramp of 6'**

SHOW ALL STRUCTURES EXISTING AND PROPOSED ON THIS SITE PLAN
(i.e. fences, decks, room additions, porches, sheds, etc.)
FOR PROPOSED STRUCTURES SHOW THE SIZE OF THE STRUCTURE AND
DISTANCES FROM PROPERTY LINES AND THE MAIN BUILDING



Street Name: 15 HEARNAY DR.

SITE PLAN

Street Address _____

Owner _____



To: Board of Zoning Appeals

From: John Creech

Subject: **AGENDA ITEM #2**

2016-4-Variance

Request by Mr. Allen Loudly for a zoning variance to reduce the minimum lot area required for an Automobile Service and Minor Repair facility from 20,000 square feet to approximately 10,860 square feet, located at 735 S. Erie Boulevard (Allen Loudly, Applicant/Owner).

Date: March 3, 2016

Dear BZA Members:

Introduction:

An application was submitted by Mr. Allen Loudly for one (1) zoning variance in order to apply for a conditional use to an Automobile Service and Minor Repair facility on the property located at 735 South Erie Boulevard. (Exhibit A). The property is zoned B-2 Community Business zoning district (Exhibit B). B-2 Community Business zoning district is regulated by Section 1121.00 of the Hamilton Zoning Ordinance, (HZO). An Automobile Service and Minor Repair facility use is listed as a Conditional Use in Section 1121.39.26 and has a number of conditions associated with it. If an applicant cannot meet those conditions they must first receive approval of a zoning variance from the Board of Zoning Appeals before applying for a Conditional Use.

An Automobile Service and Minor Repair Facility use requires Conditional Use approval by the Planning Commission (Section 1121.36.26). Section 1108.00 of the Hamilton zoning ordinance provides the official zoning definition for an Automobile Service and Minor Repair facility.

The one (1) requested zoning variance to Section 1121.39.26 of the Hamilton Zoning Ordinance are as follows:

- 1) A request to reduce the minimum lot area required for an Automobile Service and Minor Repair facility – the minimum lot area required is 20,000 square feet - the subject property is approximately 10,860 square feet.

Property Details:

The property is zoned B-2 Community Business District and is comprised of a single 10,860 square foot lot. The lot is only 54 percent of the required lot size for the proposed Automobile Service and Repair facility. The property has a total of 122 lineal feet of lot frontage along South Erie Boulevard. There is an existing 4,800 square foot building on the property that covers approximately 44 percent of the lot and is only setback approximately 5-10 feet from the front property line.



The properties to the north and south are zoned B-2 Community Business District. Immediately to the east is South Erie Boulevard and further east is property zoned I-1 Light Industrial. To the west, across the public alley is property zoned R-3 One to Four Family Residential District.

Background

The subject property was approved for a Car Wash through the conditional use process on August 5, 2004. In January 2015, the property received a violation letter for operating an automobile sales use without conditional use approval. On September 3, 2015, the application for a conditional use to establish an automobile sales use on the property was denied by the BZA. The property owner then sold the subject property to Mr. Loudly in November 2015. Mr. Loudly, has made an application for a variance to reduce the minimum lot size in order to apply for the establishment of an Automobile Service and Minor Repair Facility on the property.

Use Specific Standards and Variances:

If the lot area zoning variance is approved by the BZA, the applicant intends to submit an application for a Conditional Use for an Automobile Service and Minor Repair facility on the property. Based on the variance application, the applicant has determined that one zoning variance is necessary prior to proceeding with a Conditional Use application. The one (1) zoning variance from Section 1121.39.26 (also indicated in red below) is as follows:

- 1) To reduce the minimum lot area required for an Automobile Service and Minor Repair facility– the minimum lot area required is 20,000 square feet - the subject property is approximately 10,860 square feet.

Automotive Service and Minor Repair: (OR 2014-8-72)

As Defined in Section 1108.00 and must comply with the following conditions:

- **Minimum lot area 20,000 square feet.**
- Minimum lot area with accessory Car Wash 40,000 Square Feet.
- Minimum lot width 100 feet and must be located along a street classified as major arterial, minor arterial, or a collector street, in accordance with the City of Hamilton Street Designation.
- Facilities that are located on a corner lot shall have a minimum of 100 feet frontage on each street;
- Any automobile awaiting minor repair may be permitted outside of a building. Automobiles awaiting repair may not be stored on the lot for more than 30 days.
- Automobiles awaiting repair, shall be located on a paved surface and shall be setback a minimum of ten (10) feet from any property line. The area for vehicles shall comply with the side and rear building setback requirements set for the district in which the lot is located or be at least ten (10) feet, whichever is greater. All areas not used for parking of vehicles shall be landscaped according to the requirements of Section 1111.20.
- An accessory automated car wash is permitted within a completely enclosed building and shall have a minimum lot size of 40,000 square feet. The location of access drives shall be placed as far as possible from the intersection.



- Vacuuming or steam cleaning equipment may be located outside a building but shall not be placed closer than fifty (50) feet to any adjoining residential property and at least twenty (20) feet from a public right-of-way.
- Parking and related driveways and paved areas may be erected in a front yard, but not less than 20 feet from any property line.
- The only services permitted to be performed outside of a building shall include but not be limited to the dispensing of fuels, oil, air, and other common vehicular liquids and lubricants and minor repair such as fuse, light bulb, windshield wiper replacement, etc.
- Any repair and services area must be located within an enclosed building.
- No junk, inoperative or unlicensed automobiles, except for the inventory of new or used automobiles for sale, or automobiles awaiting repair, shall be permitted outside of any building. Automobiles awaiting repair may not be stored on the lot for more than 30 days.
- The only automobile repair and services permitted to be performed outside of a building shall include but not be limited to the dispensing of fuel, oil, air and other common vehicular liquids and lubricants and minor repair such as fuse, light bulb, windshield wiper replacement, etc.
- Hazardous Materials. All automotive fluids, tires, batteries, and other discarded hazardous materials must be recycled or removed in accordance with local, state and federal standards.
- Indoor Storage. Used or discarded automotive parts or equipment, not including hazardous materials as mentioned above must be stored inside a building.
- Building Openings. There may not be any openings in side walls, rear walls or roofs within 50 feet of a residential district, unless the openings are stationary windows or required fire exits.
- Vehicular access drives shall be limited to no more than one (1) access drive per street frontage, unless otherwise approved by the City Traffic Engineer.
- Proposed building and site shall comply with Section 1111.00 Architectural, Landscaping, Design, Building & Site Development Regulations.

Zoning Variance Review

In order to grant a zoning variance, the Hamilton Zoning Ordinance (Section 1170.63) requires that the BZA must find all four of the following facts and conditions below exist beyond a reasonable doubt. The applicant included the following rationale (***in bold italics***) for the one (1) requested zoning variance. Information/commentary for the BZA to consider is underlined.

1. **1170.63.1 Exceptional Circumstances:** That there are exceptional or extraordinary circumstances or conditions applying only to the property in question that do not apply generally to other properties in the same Zoning District.

The subject parcel has been used for commercial use for many years despite its trapezoidal shape and a building that occupies nearly 50%



of the entire lot. Unlike any other property in the B-2 district, said property has been used for nearly 12 years as a car wash/auto detailing facility, a principal permitted use at the time applied for, and granted by the Board of Zoning Appeals, August 6, 2004. Said property is screened from adjoining properties to the west and south by a six foot opaque fence that separates the property from its neighboring properties to the south and west that was required in the granting of the aforesaid conditional use. The permitted use, lot, and building configuration/proportionality, are extraordinary circumstances apply to this property that do not apply generally to other properties in the B-2 district.

The exceptional circumstances raised by the applicant (lot configuration i.e. shape, existing building) are only an issue because of the requested lot area zoning variance for the proposed conditional use – there are other permitted land uses in the B-2 zoning district that could be pursued by the applicant. The 20,000 square foot minimum lot area requirement does not deprive the owner of a reasonable economic use of the property given that there are other permitted land uses in the B-2 zoning district.

2. **1170.63.2 Preservation of Property Rights:** That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same Zoning District and the in same vicinity.

The variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the B-2 district by virtue of the code requirement of the 20,000 square foot area standard. Such requirement presents a practical difficulty for the many commercial properties in the B-2 district that lack 20,000 square feet in area. Such standard impedes or prevents full commercial development of the B-2 district and renders a number of commercial properties nonconforming. The granting of the variance in the instant case is necessary for the preservation and enjoyment of the substantial property rights possessed by other properties in the B-2 district that lack only the 20,000 square foot area standard.

The 20,000 square foot minimum lot area requirement for an Automobile Service and Minor repair facility is the standard for all new uses in the B-2 zoning district. The 20,000 square foot minimum lot area requirement may preclude the establishment of an Automobile Service and Minor repair facility but does not deprive the owner of pursuing other permitted B-2 zoning district land uses on the property. The 20,000 square foot minimum lot area requirement does not deprive the owner of a reasonable



economic use of the property given that there are other permitted land uses in the B-2 zoning district.

3. **1170.63.3 Absence of Detriment:** That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this Ordinance of the public interest.

The authorization of the variance requested would in no way detrimentally affect adjacent property. The subject property is separated on the west and the south from adjacent properties by a six foot opaque fence previously mentioned, which was erected as required by the City as a condition of the granting of a conditional use in 2004. Said fence is a physical barrier separating the subject property from such adjacent properties, as required by the City. This screening that exists between neighboring properties is enhanced by the planned landscape buffer whereby over 2,000 square feet of concrete is to be replaced by a landscaping that will exceed the southern set back and part of the western set back, doubling the width of the setback. Given the fact that all activities of the permitted use of this parcel will take place inside the building on a parcel that is screened as well as buffered from adjacent property, such a variance will not materially impair the purposes of the zoning ordinance or the public interest.

The property is only 10,860 square feet for a use that requires 20,000 square feet. The lot is only 54 percent of the required lot size for the proposed Automobile Service and Repair facility. In addition, the building measures approximately 4,800 square feet which leaves approximately 6,060 square feet for vehicle parking. The site plan indicates only seven (7) spaces for vehicle parking for customers and parking for vehicles awaiting repair and/or pick-up after repair. The zoning code requires one (1) space for every 1,000 square feet of building area i.e. 5 spaces are required. There is a strong concern that given the small size of the property and the few parking spaces provided that the proposed Automobile Service and Minor Repair facility could be detrimental to the adjacent properties and impair the purposes of the zoning ordinance to project the public interest.

4. **1170.63.4 Not of a General Nature:** No grant of a variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property for which the variance is sought is not of general or recurrent nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

The specific and unique characteristics of the subject property as to its use, screening, buffering, lot shape, and building to vacant land



proportionality, renders the variance sought not of so general or recurrent in nature as to make reasonably practicable the formulation of a general regulation for such conditions and situation.

The 20,000 square foot minimum lot area requirement for an Automobile Service and Minor repair facility is the standard for all new uses in the B-2 zoning district. The purpose of the 20,000 square foot minimum is to better regulate conditional uses that could negatively impact adjacent properties, or neighboring uses.

Recommendation:

Based on a review of the submitted information, there is reason to consider denying the variance request to reduce the minimum lot area from 20,000 square feet to 10,860 square feet.

- The BZA finds that the variance application does not satisfy the four (4) standards for the granting of a variance as defined in Section 1170.63 Variance- Findings of the Board.
- The property is only 10,860 square feet for a use that requires 20,000 square feet. The lot is only 54 percent of the required lot size for the proposed Automobile Service and Repair facility.
- There is a strong concern that given the small size of the property and the few parking spaces provided that the proposed Automobile Service and Minor Repair facility could be detrimental to the adjacent properties and impair the purposes of the zoning ordinance to project the public interest.
- Based on available information of the property and information provided by the applicant as part of the variance application the property is too small for the proposed use.

Notification

Public Hearing Notices were mailed to eleven (11) property owners within 100 feet of the property in question. At the time this report was written, were no objections expressed to the proposed zoning variance.

Attachments:

- 1) **Exhibit A - Public Hearing Location Map**
- 2) **Exhibit B – Zoning Map**
- 3) **Exhibit C – Variance Application**



PUBLIC HEARING NOTIFICATION MAP
735 S. ERIE BLVD



 735 S. Erie Blvd.

0 37.5 75 150 Feet



Exhibit B

PUBLIC HEARING NOTIFICATION MAP
735 S. ERIE BLVD



 735 S. Erie Blvd.





BOARD OF ZONING APPEALS APPLICATION

Property Address: 735 S. Erie Boulevard

Lot No(s): 27073

Property Owner: Allen Loudiy

Owner's Mailing Address: 5888 Beacham Dr., Huber Heights, OH 45424

Appellant's Name (If different than owner): _____

Appellant's Mailing Address: _____

Appellant's Email Address: _____

Previous Legal Use of Property: Auto Detailing business

Date Previous Use Discontinued: N/A

Proposed New Use of Property: Automotive Service and Minor Repair

Purpose of Application (Check all that apply):

Requesting a variance for signs. Please describe the request below.

Requesting a variance other than a sign from the following Sections of the Hamilton Zoning Code (also fill out **Appellant's rational for requesting a Variance**)
Section 1121.39.26

Other – Skip to "Other" Section of Application Form

City of Hamilton
Date: 2/12/2016
Office: CMST
Acct: 226680
Cashier: Consvs
Name:
Receipt # 1080034
Payment total: \$200.00
2/12/2016 5:1 AM
Check Tendered: 200.00

VARIANCES

Appellant's Rationale for requesting a Variance:

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, beyond reasonable doubt, that all of the following facts and conditions exist. **Please address each condition below in the space provided.**

Exceptional Circumstances: That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same Zoning District.

See attached

Preservation of Property Rights: That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same Zoning District and in the same vicinity.

See attached

Absence of Detriment: That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this Ordinance of the public interest.

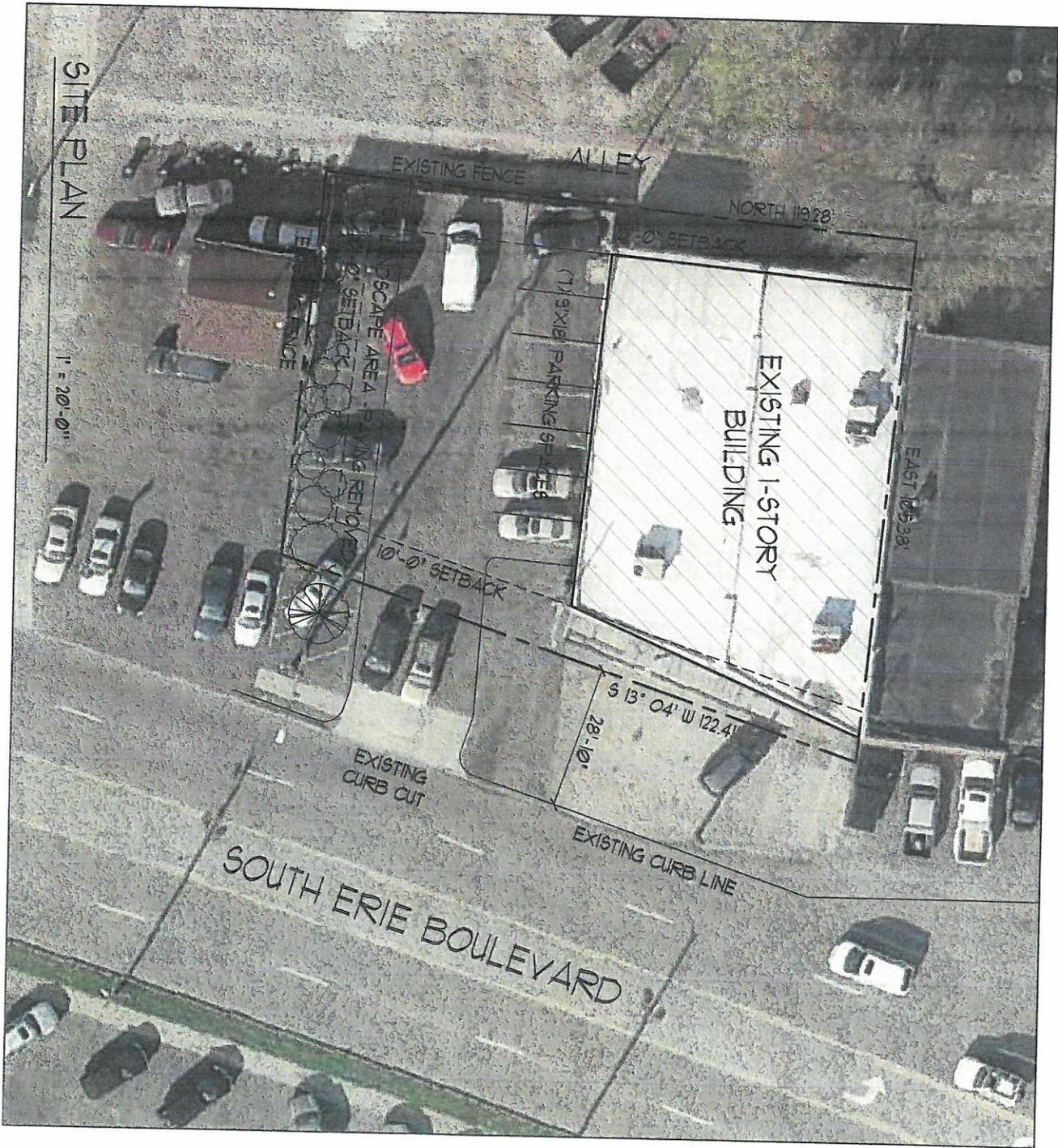
See attached

Exceptional Circumstances: The subject parcel has been used for commercial use for many years despite its trapezoidal shape and a building that occupies nearly 50% of the entire lot. Unlike any other property in the B-2 district, said property has been used for nearly 12 years as a car wash/auto detailing facility, a principal permitted use at the time applied for, and granted by the Board of Zoning Appeals, August 6, 2004. Said property is screened from adjoining properties to the west and south by a six foot opaque fence that separates the property from its neighboring properties to the south and west that was required in the granting of the aforesaid conditional use. The permitted use, lot, and building configuration/proportionality, are extraordinary circumstances applying to this property that do not apply generally to other properties in the B-2 district.

Preservation of Property Rights: The variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the B-2 district by virtue of the code requirement of the 20,000 square foot area standard. Such requirement presents a practical difficulty for the many commercial properties in the B-2 district that lack 20,000 square feet in area. Such standard impedes or prevents full commercial development of the B-2 district and renders a number of commercial properties nonconforming. The granting of the variance in the instant case is necessary for the preservation and enjoyment of the substantial property rights possessed by other properties in the B-2 district that lack only the 20,000 square foot area standard.

Absence of Detriment: The authorization of the variance requested would in no way detrimentally affect adjacent property. The subject property is separated on the west and the south from adjacent properties by a six foot opaque fence previously mentioned, which was erected as required by the City as a condition of the granting of a conditional use in 2004. Said fence is a physical barrier separating the subject property from such adjacent properties, as required by the City. This screening that exists between the neighboring properties is enhanced by the planned landscape buffer whereby over 2,000 square feet of concrete is to be replaced by a landscaping that will exceed the southern set back and part of the western set back, doubling the width of the set back. Given the fact that all activities of the permitted use of this parcel will take place inside the building on a parcel that is screened as well as buffered from adjacent property, such a variance will not materially impair the purposes of the zoning ordinance or the public interest.

Not of General Nature: The specific and unique characteristics of the subject property as to its use, screening, buffering, lot shape, and building to vacant land proportionality, renders the variance sought not of so general or recurrent in nature as to make reasonably practicable the formulation of a general regulation for such conditions and situation.



SITE PLAN

1" = 20'-0"

A-1

DATE
February 11, 2006
REVISIONS

PROPOSED AUTOMOBILE REPAIR CENTER
 735 South Erie Boulevard
 HAMILTON, OHIO 45011

ARCHITECT
 SCOTT
 WEBB
 103 West Walnut Street
 Oxford, Ohio 45056
 (513) 523-3838
 www.scottwebbarchitect.com

