

Case Number: 24-BZA-005

Request: Variance

Applicant: Matthew Steinke

Staff Report: Completed by Jeff Palmer, Director of Planning & Zoning

Hearing Date: August 13, 2024

Report Date: July 23, 2024

Current Zoning of Property: Residence Zone “R-1”

Description of Property:

The property is identified as 4104 Springboro Road. The property is also referenced by Survey Vol 104 Plat 27. The property is identified by parcel id 08-04-300-042 and account number 0641415. The property is 1.50 gross acres in size. The property is zoned Residence Zone “R-1”. (See Exhibits: Location Map, 1A-D, 2, 3, 4)

Nature of the Request:

The applicant states: “To request a variance from the 10 foot minimum offset from the property line for a pole barn to be built. The current distance from property line to proposed location is roughly 3 feet. The purpose of this structure is a place to store a vehicle and lawn equipment along with a place for my children to play and reduce the amount of screen time they experience. This pole barn would provide a fun, safe, and secure location for my children and their friends to enjoy.” (See Exhibits: 5, 6A-I)

Background on the Nature of the Request

Staff Comments:

The applicant is requesting a reduction to the northern side yard setback for an accessory structure. The request is for the side yard setback to be two (2) foot and eight (8) inches instead of ten (10) foot, which is required in Section 5.754(B) of the Clearcreek Township Zoning Resolution. (See Exhibits: 5, 7)

On May 1, 1998, the parcel is created via the Lot Split for S & R Alexandar Volume 104 Plat 27 with two hundred three and thirty-four hundredths (203.34) of road frontage. The southeast corner of the parcel is bisected a recorded High-Pressure Gas Pipeline setback imposed by the Warren County Regional Planning Commission with a width of approximately 50’. (See Exhibit: 2)

The applicant desires to have the proposed northern boundary of the accessory coincide with the existing concrete driveway. The applicant came to my office this summer and we discussed the potential placement of the structure on his property. At that meeting, I used the Warren County Auditor’s Website Aerial to measure the distance between the northeastern corner of the concrete driveway and the northern boundary of the property, the dimension was found to be eight and sixty-seven hundredths (8.67) feet. The level of accuracy for the Warren County Aerial has been represented as plus/minus three (3) feet. I suggested that the applicant search for the northern property pins, pull a string from the two (2) points to establish the property line and attempt to verify the dimensions from the house, shed and concrete drive. If the property pins could not be located, I suggested the applicant contact a surveyor to affirm the northern property line. After that meeting, I spoke again with the applicant, he outlined that a surveyor had affirmed his northern property line and the found distance from the concrete driveway corner to the northern property line was two (2) feet and eight (8) inches. This difference is greater than the margin of error for the Warren County Auditor’s Website Aerial. (See Exhibits: 5, 8)

The following Sections of the Clearcreek Township Zoning Resolution are involved with this request.

DEFINITIONS

- SEC. 3.02** **Accessory Building, Use or Structure:** A building, use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal building use or structure.
- SEC. 3.44** **Lot:** A parcel of land having its frontage upon a public street or road.
- SEC. 3.442** **Lot, Building:** A lot or parcel of land, occupied or intended to be occupied by a principal structure that has been lawfully created and meets all criteria required by the underlying zoning classification.
- SEC. 3.47** **Lot, Depth:** The mean horizontal distance between the front and rear lot lines of a lot measured within the lot boundaries.
- SEC. 3.48** **Lot, Frontage:** The frontage of a lot is the length of the boundary of a lot that is coincident and in common with that of the road right-of-way of a public street, road or highway that it abuts.
- SEC. 3.51** **Lot, Width:** The mean horizontal distance between the side lot lines measured within the lot boundaries, or the minimum distance between the side lot lines within the buildable area.
- SEC. 3.69** **Structure:** Anything constructed or erected, the use of which requires fixed location on the ground or attached to something having a fixed location on the ground, including permanent buildings, signs, pergolas, swimming pools and telecommunication towers.
- SEC. 3.73** **Yard:** An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except eaves, balconies and unenclosed steps leading to a first floor or basement. In measuring a yard the minimum horizontal distance between the lot line and the nearest portion of the building shall be calculated, starting at the lot line and ending at the nearest portion of the building foundation.
- SEC. 3.74** **Yard, Front:** The open space extending across the front of a lot between the lot frontage and the closest vertical support for the building, other than the projection of the usual eaves and overhangs not to exceed three (3) feet, steps, wheelchair ramp. For a lot that has frontage on more than one street, the required front yard shall be provided on all streets.
- SEC. 3.75** **Yard, Rear:** The open space extending across the rear of a lot between the side lot lines and the being the minimum horizontal distance between the rear lot line and the building other than the projection of the usual eaves and overhangs not to exceed three (3) feet, steps, unenclosed balconies or unenclosed porches. The lot line is most distant from, and is, or is most nearly parallel to, the lot frontage. If a rear lot line is less than fifteen (15) feet long, or if the lot line comes to a point at the rear, the rear lot line shall be a line at least fifteen (15) feet long lying wholly within the lot, parallel to the lot

frontage. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots the rear yard shall in all cases be the opposite end of the lot from the front yard. On lots fronting on three (3) streets, the remaining dimension shall be termed the rear yard, but shall be at least the minimum established for any side yard in the respective zone.

SEC. 3.76 **Yard, Side:** The open space between the building and the side line of the lot and extending from the front yard to the rear yard. Unenclosed steps, wheelchair ramps and balconies may extend into the side yard no more than one-half (1/2) of the required side yard width. Side yard lot lines connect lot frontage to rear yard lot lines.

**CHAPTER 5.75
RESIDENCE ZONE "R-1" REGULATIONS**

SEC. 5.754 **PRINCIPAL STRUCTURE, REQUIRED YARDS FOR LOTS EXCEPT PANHANDLE LOTS:**

- A.** There shall be front yard having a depth of not less than fifty (50) feet, provided, however, no front yard depth shall be required to exceed the average of the minimum depths of the existing front yards on the lots adjacent on each side, if each of such lots are within the same block and within one hundred (100) feet of a the building under consideration. If an average can not be mathematically determined based upon the above process, then the zoning inspector shall expand the area under review. The expanded area shall include the front yard setbacks of the building(s) across the street and within one hundred (100) feet of the building under consideration.
- B.** For a lot that has frontage on more than one street, the required front yard shall be provided on all streets.
- C.** Side yard: There shall be a side yard of ten (10) feet minimum on each side, except for lots with more than one (1) front yard, in which case the minimum side yard shall be ten (10) feet on the side, if any, not fronting on a street.
- D.** Rear yard: There shall be a rear yard having a depth of not less than forty (40) feet, except for lots with three (3) front yards, in which case the minimum rear yard shall be ten (10) feet.

SEC. 5.7545 **ACCESSORY STRUCTURE, REQUIRED YARDS FOR LOTS EXCEPT PANHANDLE LOTS:**

- A.** Front yard shall conform to 5.754 (A) and 5.754 (B).
- B.** Side yard shall conform to 5.754 (C).
- C.** Rear yard shall be a minimum of ten (10) feet.

The standard for approval of a variance is “Unnecessary Hardship”. In determining whether or not unnecessary hardship exists, the Board of Zoning Appeals will consider the following factors. Please indicate below how this variance meets each standard.

Review of Application:
Evaluation of the Variance:

1. The hardship must remove all profitable use from the land. It is not a sufficient hardship if the land would be more valuable with the variance, or less valuable without the variance. Instead, there must be evidence that the property is unsuitable to any of the permitted uses as zoned:

The applicant states: "I am not requesting a zoning usage change but rather minimum setback variance based on how the original owner laid out the plot." (See Exhibits: 9A-B)

The following issues need to be considered:

- The parcel is currently being used for a single-family dwelling. (See Exhibits: 1A-B, 4, 5, 7, 9A-B)
- A Warren County Regional Planning Commission setback associated with the High-Pressure Gas Pipeline restricts the placement of a structure in the southeastern corner of the property. (See Exhibit: 2)

2. The hardship must result from circumstances affecting a particular and unique piece of land, and not from a general condition throughout the neighborhood:

The applicant states: "I am requesting a variance for my property located on Springboro Road, situated uniquely between Pekin and State Route 122. My property stands out due to its irregular shape, which combines elements of both square and long skinny rectangle plots, making it distinct from neighboring properties. This unique layout along with how the original owner laid the plot presents several challenges that necessitate your consideration for a variance. With this layout the original property owner built the house towards the back of the property and placed the leach field in the front yard (southwest corner). The septic tank is located on the south side of the house where the grass does not grow on the areal picture of the property. The backup leach field is set to be on the south east corner of the property where the kids play set is sitting. The original builder also placed the propane tank in between the house and the driveway which causes limitations on the width of a potential building. With the way the plot was originally laid out, the only spaces for the pole barn is off of the drive way to the north east corner or the front yard." (See Exhibits: 4, 5, 7, 9B, 26A-B)

The following issues need to be considered:

- I contacted the Warren County Geographical Information Systems Department and requested aerials of the subject property from calendar years 2018-2023. (See Exhibits: 10A-D)
 - Based upon the time of the year, the 2018, 2020 and 2022 Warren County aerials were taken, the driveway extension had not been established. (See Exhibits: 10A-C)
 - Based upon the time of year, the 2023 Warren County aerial was taken, the driveway curve had been squared off and the driveway was extended to the east by the applicant. The driveway extension was measured to be thirty-six (36) feet and six (6) inches by twenty-seven (27) feet and six (6) inches. (See Exhibits: 7, 10C-D)
- Concrete/asphalt/gravel/pavers can be used to create driveways, pads and/or patios and are not required to have zoning permits or meet zoning setbacks.
- Per my email discussion with Captain Jeff Prass of the Clearcreek Fire District, Table 6104.3 of 2017 Fire Code outlines the minimum distance a LP-Gas tank can be located from property lines and buildings. It is the responsibility of the homeowner to ensure compliance. (See Exhibits: 11A-C)

- The tank is currently thirty-two (32) feet from the existing home. (See Exhibit 7)
- The western boundary of the proposed accessory structure is coincident with the eastern boundary of the extended driveway. (See Exhibits: 5, 7)
- The tank is four (4) feet west of the eastern boundary of the extended driveway. (See Exhibit: 7)
 - The applicant has not represented that the tank will be relocated.
 - If the variance is approved, the southwestern corner of the accessory structure would be north of the tank. (See Exhibit: 12G-I)
 - If the accessory structure met all the required setbacks, the southwestern corner of the accessory structure would be approximately five (5) feet south of the tank. (See Exhibit: 12I)
- One hundred (100) feet of road frontage has been the minimum required amount of road frontage width for the Residence Zone “R-1” (formerly Rural Residence Zone “R-1”) since it was established in 1973. (See Exhibits: 13C, 14D)
- On January 17, 1997, four (4) parcels were created by Survey Vol 99 Plat 48. Tract 1 & Tract 2 were recorded and exist with frontage widths of 240.85 and each is 1.5 gross acres in size. Tracts 3 and 4 were illustrated with 203.33’ of road frontage and each was 1.5 gross acres in size. The usability of Tracts 3 and 4 are severely limited by the High-Pressure Gas Pipeline and Warren County Regional Planning Commission setbacks. (See Exhibit: 15)
- The subject parcel is located north of the illustrated Tract 3. It mimics the 203.33’ of road frontage and the 1.5 gross acreage first established in Survey Vol 99 Plat 48. (See Exhibits: 2, 15)
- The proposed accessory structure is thirty-six (36) feet by seventy-two (72) feet or two thousand five hundred and ninety-two (2,592) square feet in size. (See Exhibits: 5, 6A-E, 7)
- Only six (6) parcels are in the five hundred (500) foot notice area: (See Exhibit: 16)
 - Two (2) parcels are over five (5) acres in lot size. (See Exhibits: 17A, 19A)
 - Four (4) parcels are under five (5) acres in lot size. (See Exhibits: 18A, 20A, 21A, 22A)
 - Two (2) parcels have road frontage that is greater than one hundred and twenty-five (125) feet and less than one hundred twenty-six (126) feet. (See Exhibits: 16, 21A, 22A, 24, 25)
 - Both parcels have an accessory structure. (See Exhibits: 21C, 22C)
 - The smallest accessory structure is five hundred and seventy-six (576) square feet. (See Exhibit: 22C)
 - The largest accessory structure is one thousand nine hundred and twenty (1,920) square feet. (See Exhibit: 21C)
 - The average size of the accessory structure is one thousand two hundred and forty-eight (1,248) square feet. (See Exhibits: 21C, 22C)
 - Two (2) parcels have frontage equal to or greater than two hundred (200) feet. (See Exhibits: 15, 16, 18A, 20A, 23)

48A, 49A, 50A, 52A, 57A, 58A, 59A, 60A, 61A, 62A, 63A, 64A, 65A, 66A, 67A)

- Twenty (20) parcels have at least one (1) accessory structure. (See Exhibit: 18C, 20C, 21C, 32B, 34B, 38B, 40B, 41B, 42B, 43B, 44B, 50B, 57B, 58B, 60B, 61B, 62B, 63B, 67B)
 - The smallest size of accessory structure was one hundred sixty (160) square feet. (See Exhibit: 20C)
 - The largest size of accessory structure was one thousand nine hundred twenty (1,920) square feet. (See Exhibit: 44B)
 - The average size of the accessory structure is one thousand and sixty-eight hundredths (1,000.68) square feet. (25,017/25) (See Exhibits: 18C, 20C, 21C, 32B, 34B, 38B, 40B, 41B, 42B, 43B, 44B, 50B, 57B, 58B, 60B, 61B, 62B, 63B, 67B)

3. *A variance must not alter the essential character of the neighborhood:*

The applicant states: “Based on the plot layout, there are really only 2 feasible locations for the pole barn base on what was discussed in #2. Directly off of the driveway to the northeast corner where the variance is being requested or in the front yard, just south of the driveway before the leach field starts. I believe that if putting the pole barn in the front yard, that would alter the essential character of the neighborhood as all of the properties on Springboro Road have buildings/barns behind their houses rather than in front. Also to keep the character of the neighborhood, I am using the same builder that 2 of my neighbors directly to the south used. This ensures continuity in architectural style and construction quality, contributing positively to the overall neighborhood appeal. The exterior color of my proposed pole barn will match the color scheme of my house to ensure continuity of the property.”

The following issues need to be considered:

- The applicant has submitted building drawings.
 - The structure is proposed to be thirty-six (36) feet wide by seventy-two (72) feet long or two thousand five hundred and ninety-two (2,592) square feet. (See Exhibits: 5, 6A-E, 7)
 - The structure is proposed to have sixteen (16) feet walls. (See Exhibit: 6B)
 - The peak of the roof is approximately twenty-three (23). (See Exhibits: 6A-B)
 - The proposed wall color is Light Stone. The proposed roof, trim and wainscoting color is Clay. The door color is proposed to be White. (See Exhibit: 6A)
- In the five hundred (500) foot notice area, one (1) variance request was found. This request was for a reduction in the rear yard setback. At that time, the rear yard setback for an accessory structure was the same as the principal structure. In 2005 the rear yard setback for an accessory structure was updated to the dimension of the required side yard setback. (See Exhibits: 13C, 18D-E)
- The applicant provided an aerial that depicts the proposed building meeting the required zoning setbacks. (See Exhibit: 79)
- The applicant has provided a photo that depicts the location of the proposed building if the required setbacks zoning setbacks were not modified. (See Exhibit: 80)

- See staff photos. (See Exhibits: 12A-L)

4. It is not enough to show that the effects of a variance would be harmless. Real, unnecessary hardship must still be established by the applicant:

The applicant states: “Coming directly off the driveway would currently give me roughly 3 feet to the property line. My mower deck is smaller than that so I would be able to maintain the property without infringing on the other property owner. As I will note in #6 I knew my property line did not extend to the driveway to the north, but since owning the property, I have been maintaining the property to the north and to the east beyond my property lines to keep everything looking nice.”

The following issues need to be considered:

- Two (2) feet and eight (8) inches is a narrow width to accommodate the construction of the structure as well as the future maintenance of the structure. (See Exhibits: 5, 7, 12F)
 - Zoning setbacks are to the wall of the structure. Eaves of the structure are allowed to extend into the required setback.
 - The eaves are proposed to be one (1) foot in width. (See Exhibit: 6A)
 - The bottom of the eave is proposed to be approximately sixteen (16) feet and five (5) inches from grade. (See Exhibit: 6B)
 - A twelve (12) foot fiberglass step ladder has a thirty-four (34) inch base. During construction, if the southern ladder base is rubbing the wall, the northern base of the ladder would trespass two (2) inches into the northern property.
 - An extension ladder is typically set up with the “4 to 1 ladder rule” (for every four (4) feet of height, the ladder is moved one (1) foot from structure). (See Exhibits: 82A-B)
 - Once the eaves are installed (approximately sixteen (16) feet from grade) the base of the ladder would be four (4) feet from the structure.
 - The base of the ladder would trespass twenty-eight (28) inches into the northern property.

5. Any hardship must result from the requirements of the zoning resolution and not from the applicant’s own actions:

The applicant states: “The original layout of the property positioned the driveway along the edge, which now limits the feasible locations for a pole barn. If the house and driveway had been situated just 7 feet to the south during the initial planning stages, this issue would not have arisen, and compliance with current zoning requirements would have been straightforward. Upon first assessing the property for construction, I consulted the county auditor's website to approximate the location of property lines relative to neighboring structures. However, to ensure accuracy, I hired a professional surveyor to precisely stake out my property lines. This survey confirmed that the proposed pole barn location, directly off the driveway, falls outside current zoning requirements.

I am committed to complying with all other zoning regulations and ensuring that the construction of the pole barn enhances rather than detracts from the neighborhood's character. By

positioning the structure off the driveway, I aim to maintain visual harmony and preserve the integrity of our community.”

The following issues need to be considered:

- See Background above.
- See Numbers 1 & 3 above.
- The front yard setback for the proposed structure is approximately two hundred and eleven (211) feet. For comparison, the front yard setback for the house is approximately one hundred and thirty (130) feet. (See Exhibit: 7)
- The applicant desires the new structure be located coincident with and line up with the 2022-2023 extension of the driveway. (See Exhibits: 5, 7, 10C-D)

6. Whether the property owner purchased or acquired the property with the knowledge of the zoning restriction:

The applicant states: “Upon purchasing the property, my understanding was that the property lines extended to the fields to the East and South and the tree line to the north. I have consistently maintained the property with this understanding. This maintenance was done to upkeep the entire property and ensure its overall aesthetic appeal. Initially, using the Warren County Auditor's property website and its measuring tool, it appeared that the driveway was approximately 8.6 feet from the property line. However, upon hiring a professional surveyor to accurately determine the property boundaries, it was revealed that the driveway is actually approximately 2 feet 8 inches from the property line. This unexpected discrepancy has created challenges in adhering to current zoning requirements for the placement of structures on the property. I have diligently maintained the property to ensure it contributes positively to the neighborhood's overall appearance and character. I am committed to continuing this level of care and ensuring that any construction or modification on my property aligns with the neighborhood's standards and expectations.”

The following issues need to be considered:

- Per the Warren County Auditor’s Website, the applicant purchased the property on November 8, 2019. (See Exhibit:1C)
- See Background above.
- See Number 3 above.

7. A variance must not be contrary to the public interest, even if a hardship can be established:

The applicant states: “The proposed building would not be contrary to public interest as it would be placed at the back of the property and would not be significantly noticeable from any roadway. Roughly 50% (11/24) of the properties on the East side of Springboro Road have an out building detached from the residential property.”

The following issues need to be considered:

- See Numbers 1, 2, 3, 4 & 5 above.
- Of the twenty (20) parcels that have road frontage on the east side of Springboro Road, fifteen (15) parcels have at least one (1) accessory/outbuilding.

- This calculates to 75 % (15/20). (See Exhibits: 18C, 21C, 32B, 34B, 37B, 38B, 40B, 41B, 42B, 43B, 44B, 50B, 53B, 54B, 55B)
- The average size of the accessory is one thousand three hundred sixty-four and seventy-one hundredths (1,364.71) square feet. (23,200/17) (See Exhibits: 18C, 21C, 32B, 34B, 37B, 38B, 40B, 41B, 42B, 43B, 44B, 50B, 53B, 54B, 55B)
- The variance deals with the reduction of only the northern side yard setback. The applicant will exceed the remaining setbacks. (See Exhibits: 5, 7)
 - The applicant is requesting two (2) feet and eight (8) inches instead of the required ten (10) feet or one hundred and twenty (120) inches.
 - The request is an encroachment of seven (7) feet and four (4) inches or eighty-eight (88) inches. (See Exhibits: 5, 7)
 - The request meets twenty-six and sixty-seven hundredths (26.67) percent of the requirement, (32/120). (See Exhibits: 5, 7)
- Typical side yard setbacks in Clearcreek Township residential zoning classifications:
 - The Open Space Rural Residence Zone “OSR-1” and the Township Residence Zone “TR-1” have a minimum side yard setback of twenty-five (25) feet.
 - The Residence Zone “R-1”, Suburban Residence Zone “SR-1” and the Residence Zone “R-1A” have a minimum side yard setback of ten (10) feet.
 - The Residence Zone “R-2” has a minimum side yard setback of five (5) feet for either side with a total of fifteen (15) feet for both sides.

Consider whether the spirit and intent as identified in the Clearcreek Township Zoning Resolution Chapter 1 are upheld during this request for a variance:

- **SEC. 1.01** To provide for the citizens of Clearcreek Township adequate light, pure air and safety from fire and other dangers, to conserve the value of land and buildings, to lessen or avoid congestion of traffic in the public streets and to promote the public health, safety, morals, comforts, conveniences and general welfare, all in accordance with the provision of Section 519 of the Ohio Revised Code.
- **SEC. 1.02** To protect the character and the stability of the residential, business and industrial areas within Clearcreek Township and to promote the orderly and beneficial development of such areas.
- **SEC. 1.03** To establish restrictions in order to attain these objectives by adopting a zoning code which will revise the districts into which the township is divided, the restrictions upon the uses to which land and buildings may be devoted, the restrictions upon the location and height of buildings, the restrictions upon the intensity of the use of land and buildings, the requirements for yards, the requirements for off-street parking facilities, the provisions for administration and enforcement of the Code, the penalties for violation of the Code, and the procedures, powers and duties of the Board of Appeals.

8. *Other factors that the applicant considers important to the judgment of the case:*

The applicant states: “The proposed location of the pole barn directly off the driveway is essential for practical reasons. Strict adherence to the 10-foot setback requirement would necessitate placing the barn further south, causing the overhead door of the barn to misalign with the driveway. This misalignment would require widening the driveway, which is hindered by the presence of a propane tank nearby. The proximity of the tank poses a safety risk if vehicles were to come too close during maneuvering.

The primary purpose of constructing this pole barn is to provide a space for my children to engage in sports and outdoor activities, especially during winter. This initiative aims to reduce their screen time and foster a healthy, active lifestyle. Additionally, the barn will serve as a gathering place for their friends, allowing me to supervise their activities closely and ensure their safety and well-being.

During this process I have tried to solve the issue without coming to you and requesting a variance. I hired a surveyor to get the exact property line and I have spoken with the property owner that is at the north boarder of my property asking if they would be willing to sell the additional 7 feet so I would not need to request a variance. There was not an interest to sell.” (See Exhibits: 12A-L)

The following issues need to be considered:

- See Numbers 1 & 2 above
- **SEC 21.01 (B) (4) Conditions For Variances:**

The Board of Zoning Appeals may impose such specific conditions and limitations concerning character, location, buffer & screening and other matters relating to the purposes, objectives and standards of this resolution. Conditions and limitations shall be imposed upon the premises benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. Such conditions and limitations shall be expressly set forth in the decision granting the variance. Violation of any such conditions or limitation shall be a violation of this resolution.

CASE 24-BZA-005 VARIANCE HEARING

Staff recommends DENIAL of Case 24-BZA-005. Staff’s rationale is outlined below:

The standard for approval of a variance is “Unnecessary Hardship”.

1. ***The hardship must remove all profitable use from the land. It is not a sufficient hardship if the land would be more valuable with the variance, or less valuable without the variance. Instead, there must be evidence that the property is unsuitable to any of the permitted uses as zoned:***

A single-family dwelling currently exists on the parcel. The northeastern quadrant of the applicant’s property is sufficient in size to accommodate the proposed size of the structure and the required setbacks. The request is to use the existing driveway extension as a coincident boundary and not establish any additional driveway for the project.

2. ***The hardship must result from circumstances affecting a particular and unique piece of land, and not from a general condition throughout the neighborhood:***

The applicant's request is for the existing driveway to be coincident with the proposed structure. Driveways are not required to meet zoning setbacks. After reviewing the Warren County GIS Aerials, staff determined that the driveway expansion was constructed between 2022 and 2023. Within the five hundred (500) foot notice area, two parcels have frontage greater than two hundred (200) feet. One (1) of the parcels was subdivided from the same original parcel.

3. ***A variance must not alter the essential character of the neighborhood:***

Along Springboro Road, south of Pekin Road and north of State Roue 122, accessory structures are placed in the side or rear yard. Within the five hundred (500) foot notice area, all parcels under five (5) acres have a single-family dwelling and at least one (1) accessory structure.

4. ***It is not enough to show that the effects of a variance would be harmless. Real, unnecessary hardship must still be established by the applicant:***

Geometrically the proposed structure can be constructed in the northeast quadrant of the property and meet all required setbacks. The construction and maintenance of the proposed structure can only occur by trespassing on the adjoining northern property.

5. ***Any hardship must result from the requirements of the zoning resolution and not from the applicant's own actions:***

The requested reduced setback for the proposed structure is to align with the existing driveway that was extended by applicant. The zoning resolution doesn't regulate the location of the driveway or type of materials for a driveway.

6. ***Whether the property owner purchased or acquired the property with the knowledge of the zoning restriction:***

The owner purchased the property on November 8, 2019. The side yard setback requirements for an accessory with a "R-1" zoning classification has been ten (10) feet since November 1973.

7. ***A variance must not be contrary to the public interest, even if a hardship can be established:***

The proposed reduced setback meets 26.67 % of the required setback. Along Springboro Road, south of Pekin Road and north of State Route 122, two (2) rural residential zoning classifications exist: Residence Zone "R-1" and Open Space Rural Residence Zone "OSR-1". The minimum side yard setback for the "R-1" zone is ten (10) feet. The minimum side yard setback for the "OSR-1" zone is twenty-five (25) feet. The applicant is requesting a setback smaller than the minimum side yard setback for the urban residential zoning classification Residence Zone "R-2".

8. *Other factors that the applicant considers important to the judgment of the case:*
Nothing additional.