

Zoning Certificate

Xenia Township

8 Brush Row Rd
Xenia, OH 45385
937.372.0859 PH
937.372.3343 Fax



Certificate Number: 2025096

ADDRESS: 1141 WOODLAND
XENIA OH 45385

PARCEL NO.: M36000200263012300

ZONING: R-1

ISSUED TO: KENNETH McFARLANE
1141 WOODLAND
XENIA OH 45385

PERMIT TYPE: Board of Zoning Appeals

DETAILS BZA ACC STR IN REQ ROADSIDE YARD

PERMIT DATE: 07/25/2025

FEE: 300.00

EXPIRE DATE: 07/25/2026

It is hereby certified that the above use as shown on the plats and plans submitted with the application conforms with all applicable provisions of the Xenia Township Zoning Resolution. The issuance of this Permit does not allow the violation of Xenia Township Zoning Resolutions or other governing Regulation.

The applicant is responsible for obtaining a building permit (if required) prior to commencing work on the proposed improvement. A final zoning inspection must be scheduled by the applicant.

This Zoning Certificate will be forwarded to Greene County Building Regulations and Greene County Engineers Office, if SM4 is applicable. You will need to contact one or both Departments for further instructions.

APPROVED BY:

DATE:

07/25/2025

Zoning Inspector



**XENIA TOWNSHIP
GREENE COUNTY, OHIO**

XENIA TOWNSHIP BOARD OF ZONING APPEALS

NOTICE OF APPEAL FOR AREA VARIANCE

Only the property owner, or their legal, authorized agent, can make an appeal to the Board of Zoning Appeals, therefore, I hereby appeal to the Board of Zoning Appeals the refusal of a Zoning Certificate (attached hereto) by the Xenia Township Zoning Inspector for the following property:

Name of Property Owner: Kenneth McFarlane Phone: 937-559-7038

Address of Property: 1141 Woodland Dr. City: Xenia Zip: 45385

Acreage of Property: .45 Parcel Number: M36000200263012300

Owner Address: 1141 Woodland Dr City: Xenia State: OH Zip: 45385

The specific variance requested for this parcel to avoid unnecessary hardship is:

Requesting a variance to allow a shed/garage to be placed 4 feet in the required interior yard instead of 10 feet and in front of primary structure.

An area variance is an exception to the regulations of the Xenia Township Zoning Resolution.

The applicant shall submit on a separate piece(s) of paper the answers to the following Duncan Standard.

In 1986 the Ohio Supreme Court oversaw the case of Duncan vs Middlefield. This case was due to the plaintiff, Duncan, requesting an **area variance** that was denied by the local

Board of Zoning Appeals Board. Due to this case the Ohio Supreme Court has prescribed seven guidelines to follow in making the decision of granting an area variance. These seven guidelines are referred to as the Duncan Criteria and are listed as follows:

1. Whether the property in question will yield a reasonable return or whether there can be beneficial use of the property without the variance:

-Without the variance, the property owner is unable to place a shed in any functional or accessible area due to existing topography, mature trees, utility lines, and the layout of the principal dwelling. While the home itself is usable, the inability to place accessory storage severely limits the property's utility. The proposed shed is a modest structure intended for essential storage purposes and represents a reasonable use of the lot, enhancing its functionality and value.

2. Whether the variance is substantial:

-While numerically the reduction from a 10-foot to a 4-foot setback may appear significant, its practical impact is minimal. The shed is a small accessory structure, not a principal building, and is designed to be low-profile and visually unobtrusive. Additionally, the placement in the front yard is necessitated by physical site constraints. In context, this variance is not substantial when balanced against the limited scope and minimal visual or practical intrusion on adjacent properties. Many other properties in the area have buildings in similar setbacks including our next door neighbors at 1144 Neeld Dr and 1138 Neeld Dr.

3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance:

-No, Granting the variance and the placement of the shed will not alter the essential character of the neighborhood, nor would it cause substantial detriment to adjoining properties. It will be constructed with materials and colors consistent with and complimentary to the primary residence. No adjoining property will suffer any obstruction of view, loss of light, or encroachment on privacy. Furthermore, this shed's architectural style, building height, and orientation have been carefully designed to harmonize with neighboring homes. In fact, the variance would allow the development of a currently underutilized portion of this property, which could enhance rather than diminish the aesthetic and functional quality of the neighborhood.

4. Whether the variance would adversely affect the delivery of government goods:

-No, the proposed variance will have no adverse effect on the delivery of governmental services, including emergency response, sanitation, utilities, or roadway maintenance. Ample clearance remains on both sides of the structure and neighboring buildings.

5. Whether the property owner purchased the property with knowledge of the zoning requirements:

-Whether or not the applicant was aware of the applicable zoning regulations at the time of purchase, that awareness does not preclude relief, particularly where the strict enforcement of the zoning requirement would result in a practical difficulty or unnecessary hardship. Courts have long held that knowledge of the restriction does not by itself bar a variance where other equitable considerations are present. (*Weiss v. Board of Zoning Appeals*, 208 A.D.2d 862 (N.Y. App. Div. 1994, *Anderson v. Board of Adjustment*, 126 N.J. Super. 190 (App. Div. 1973, *Devaney v. Board of Zoning Appeals*, 199 Conn. 692 (1986)), Here, the unique lot conditions and the absence of any reasonable alternative support relief, regardless of prior knowledge.

6. Whether the property owner's predicament can feasibly be obviated through some other method than a variance:

-No feasible alternative exists that would allow the property owner to make reasonable use of the land without a variance. Modifying the proposed structure to meet code would result in a nonfunctional structure, and reconfiguring the lot is not possible due to surrounding development, topography and lot lines.

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

-Granting the variance would uphold the spirit and intent of the zoning code, which is to promote orderly development, protect property values, and ensure reasonable land use. The relief requested is modest, justified by unique property characteristics, and would not create precedent for arbitrary exceptions. On the contrary, denial of the variance would result in an unjust and disproportionate hardship on the property owner, contrary to principles of substantial justice and equity.

The applicant shall submit on a separate piece(s) of paper the answers to the Xenia Township Zoning Resolution Standards.

1. Conditions and Circumstances: What special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.

-The topography of this property, specifically in the rear and side yard, is laid out in such a way to provide water drainage from the hillside through it while channeling much of the drainage away from the existing house. This topography is unique in having a substantial overall slope and a layout that does now allow for level building construction without disturbing the drainage flow. There is one relatively flat spot, in the front side yard, where this shed/garage is proposed.

2. Property Rights: What literal interpretation of the provisions of the Zoning District's would deprive the applicant of property rights commonly enjoyed by other properties in the same district under the terms.

-A strict interpretation of the zoning ordinance, which restricts accessory structures from being located in the front or side yard, would deprive the property owner of the reasonable and common use of their property—specifically, the ability to construct a shed or garage for storage or utility purposes. Other property owners in the same zoning district are able to place accessory structures in compliant locations on their lots. Due to the unsuitable nature of the rear yard, this restriction would effectively deny the applicant the full use of their property in a manner consistent with how other similarly-zoned properties are used.

3. No Special Privilege: Why will granting the variance requested not confer on the applicant any special use or privilege denied by this Resolution to other lands, structures, or building in the same district.

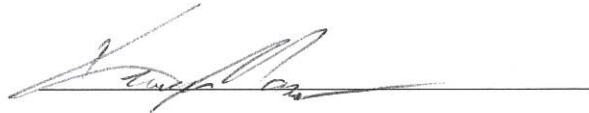
-Granting this variance would not confer any special privilege on the applicant that is denied to others in the same district. The request is solely due to the unique physical constraints of the lot and not based on personal preference or convenience. If other properties in the district were subject to similar/other physical limitations, they too would be eligible to request and potentially be granted a variance (see 1096 woodland dr.). This ensures equal application of the zoning rules while allowing reasonable use of land in special circumstances.

4. Harmony with Locality: Why will the variance requested not alter the essential character of the locality

-The requested variance will not alter the essential character of the locality. The proposed shed/garage will be constructed in a manner consistent with the appearance and style of neighboring structures and will not impact traffic, sight lines, or the visual integrity of the streetscape. Care will be taken to design the structure so that it complements the existing home and surrounding properties, maintaining the aesthetic and residential character of the neighborhood.

THIS APPLICATION IS ACCOMPANIED BY A FEE IN THE AMOUNT OF THREE HUNDRED DOLLARS (\$300.00) FOR THE PURPOSE OF DEFRAYING EXPENSES OF PUBLISHING NOTICES IN THE NEWSPAPER AND MAILING COSTS AND RECORDING FEES. ***NO REFUND WILL BE ISSUED FOR ANY REASON***

I hereby grant permission to the Xenia Township Zoning Commission, the Xenia Township Board of Trustees, Greene County Regional Planning Commission staff, Appropriate Greene County Department staff, and any other persons necessary to gather pertinent information regarding subject property to enter upon the premises. I understand a sign will be placed on my property for the purpose of identifying the property. I understand the decision of the Board of Zoning Appeals is final, and if the decision is unsatisfactory, I may appeal the decision with the Court of Common Pleas. No refunds will be given for applications for a zoning amendment, rezoning, conditional use, or variance. An application for reconsideration shall not be accepted for consideration more than once during any consecutive twelve-month period.



Owner

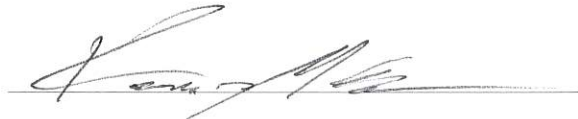
Applicant(s) [Owner or Lessee]

Signature(s)

STATE OF OHIO, GREENE COUNTY, §:

The undersigned, being first duly sworn, says that he/she is the owner
(owner or lessee)

named in the foregoing application and states that all the facts stated in said application
are true as he believes.



Applicant(s) Signature(s)

Sworn to before me by the said Kenneth McFarlane and by him/her subscribed in
my presence this 25th day of July, 2025.
My Commission expires Aug 14, 2029



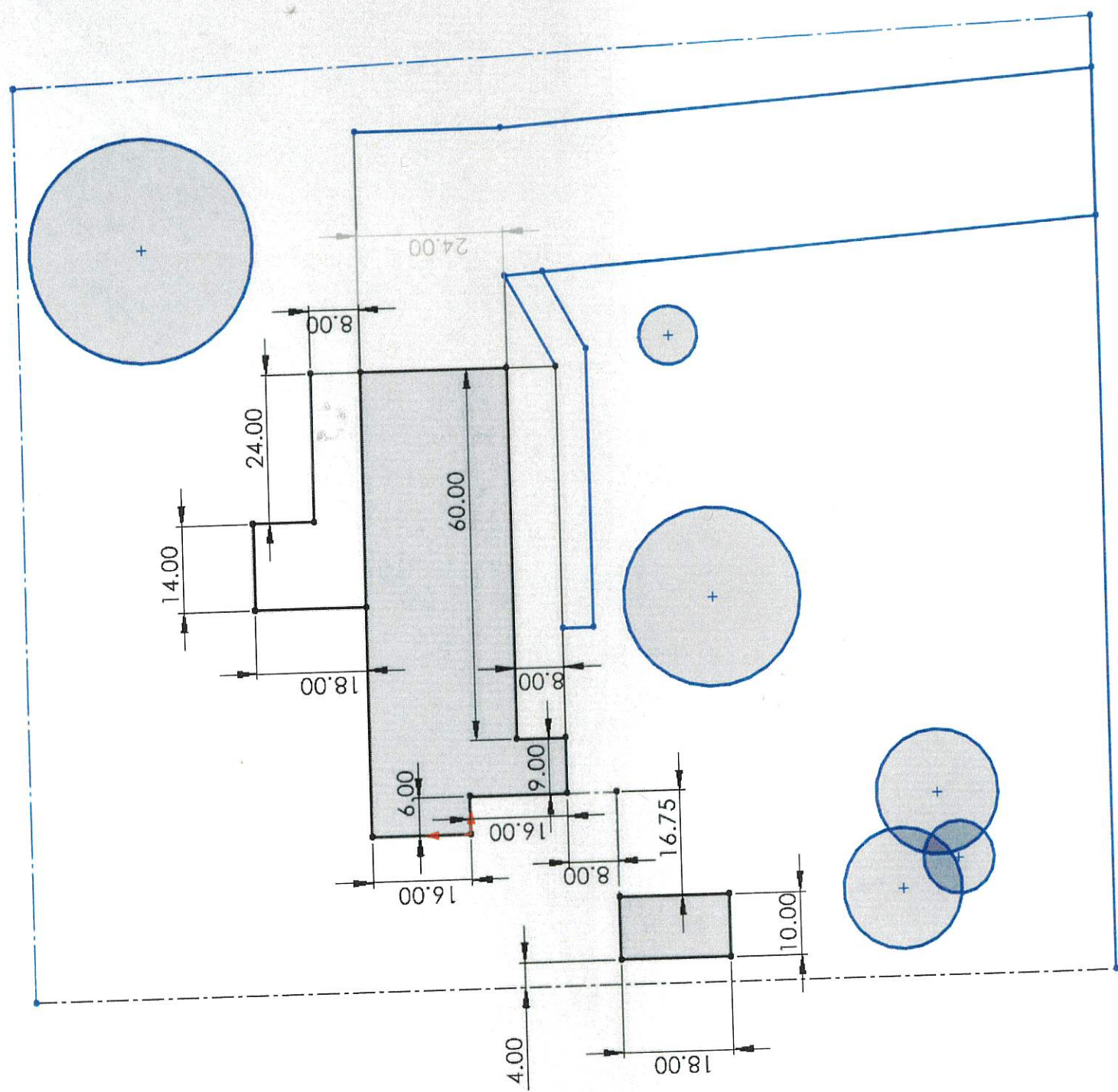
Notary

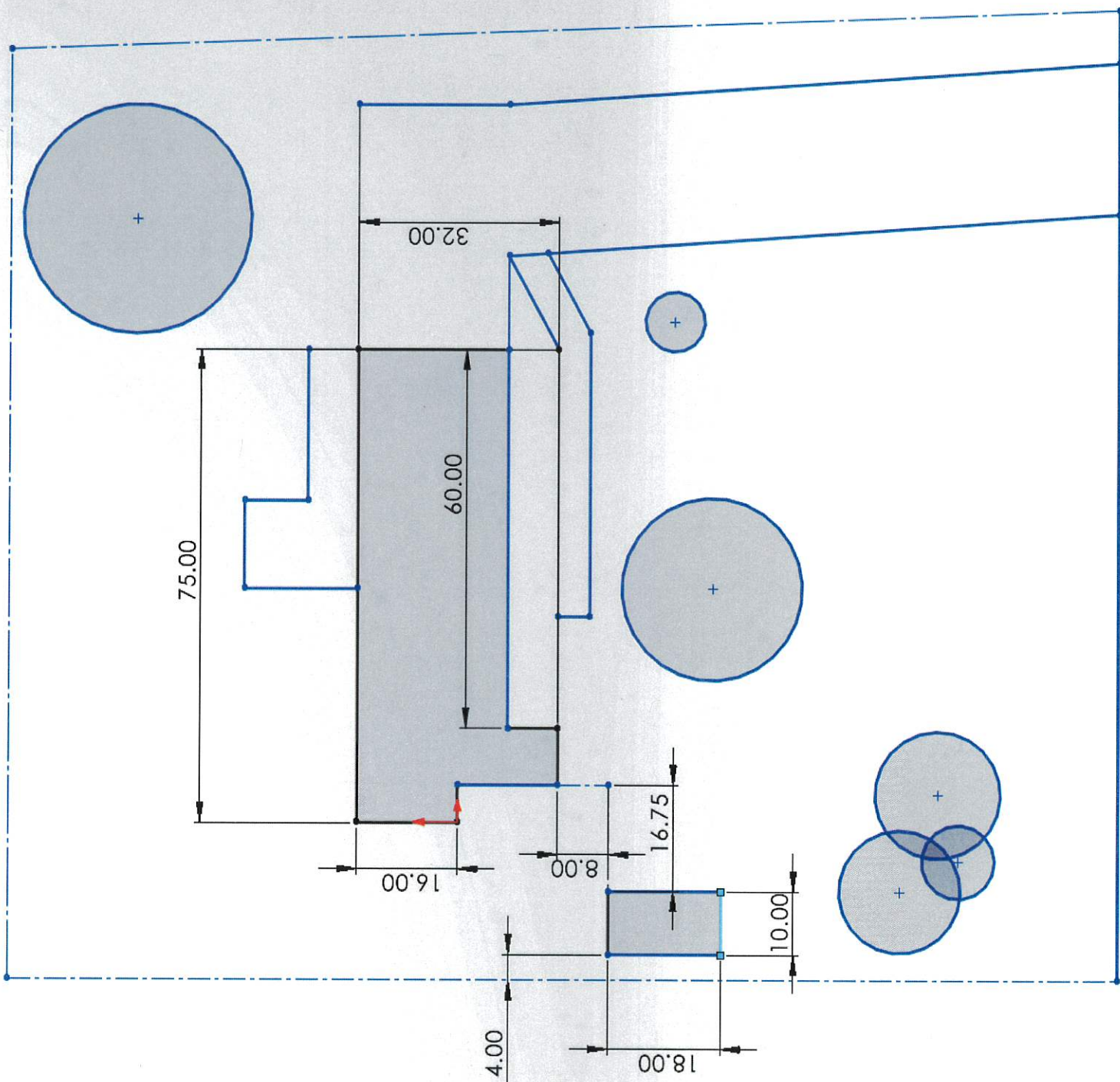
Revised 2022.04.20



MELISSA KRAUSE
Notary Public
State of Ohio
My Comm. Expires
August 14, 2029

Hand-drawn architectural site plan with dimensions and circular features.





Zoning Certificate

Xenia Township

8 Brush Row Rd
Xenia, OH 45385
937.372.0859 PH
937.372.3343 Fax



Certificate Number: 2025082

**ADDRESS: 1141 WOODLAND
XENIA OH 45385**

PARCEL NO.: M36000200263012300

ZONING: R-1

**ISSUED TO: KENNETH McFARLANE
1141 WOODLAND
XENIA OH 45385**

PERMIT TYPE: Non-Residential Accessory Structures

DETAILS SHED

PERMIT DATE: 07/09/2025

FEE: 75.00

EXPIRE DATE: 07/09/2026

It is hereby certified that the above use as shown on the plats and plans submitted with the application conforms with all applicable provisions of the Xenia Township Zoning Resolution. The issuance of this Permit does not allow the violation of Xenia Township Zoning Resolutions or other governing Regulation.

The applicant is responsible for obtaining a building permit (if required) prior to commencing work on the proposed improvement. A final zoning inspection must be scheduled by the applicant.

This Zoning Certificate will be forwarded to Greene County Building Regulations and Greene County Engineers Office, if SM4 is applicable. You will need to contact one or both Departments for further instructions.

APPROVED BY:

DATE:



Zoning Inspector

07/09/2025

(10)

**NEW CONSTRUCTION, ADDITIONS, ACCESSORY STRUCTURE
ZONING CERTIFICATE APPLICATION**

Xenia Township
8 Brush Row Rd., Xenia OH 45385
Phone: 937-372-0859 · Fax: 937-372-3343 · www.xeniatownship.org

PROPERTY AND CONTACT INFORMATION

Name of Property Owner: Kenneth M McFarlane Phone: 937-559-7038
Address of Property: 1141 Woodland Dr. City: Xenia Zip: 45385
Owner Email Address : kerikove@gmail.com Parcel Number: M36-0002-0026-3-0123-00
Name of Contractor: Self Phone: 937-559-7038
Contractor Email Address: kerikove@gmail.com

PROPOSED CONSTRUCTION

Proposed Building Use: Install prefabricated shed 10x18 shed for lawn equipment/other storage/garage.

☐ New Construction ☐ Addition ☒ Accessory Structure
With breezeway.

NEW BUILDINGS AND ADDITIONS

Total Floor Space: 180 sq. ft. Total Living Area: N/A sq. ft. Height to Peak of Roof: 12 ft.
Property Line Setbacks: FRONT 60 ft. REAR 20+ ft. SIDE ~4 ft. SIDE 20+ ft.

Other Information Required:

- ♦ Plot plan of property including existing buildings, proposed buildings, well, septic.
- ♦ Copy of construction drawings.
- ♦ The building must be staked for inspection of setbacks.
- ♦ New construction must have proof of Approved Septic Design and driveway permit

Total Amount of lot covered by a non-permeable surface may not exceed 15% of the total area of the lot

FEES:

RESIDENTIAL:	SINGLE FAMILY \$150	TWO FAMILY \$200
ACCESSORY STRUCTURE:	0-100 SQ FT \$ 50.00	OVER 100 SQ FT \$75.00
ADDITIONS:	0-200 SQ FT \$50.00	OVER 200 SQ FT \$100.00

I hereby certify that all of the information supplied in this application and attachments are true and correct to the best of my knowledge, information and belief. I hereby consent to the inspection of the subject property and of any buildings or structures to be constructed thereon by the Township Zoning Inspector. I hereby acknowledge that I understand that if the construction or use described in the zoning certificate has not begun or been substantially pursued within one year from the date of issuance, said zoning certificate shall become null and void.

Kerikove 7-2-25
Applicant Signature Date

Email: kerikove@gmail.com

***This Zoning Certificate will be forwarded to Greene County Building Regulations and Greene County Engineers Office, if SM4 is applicable. You will need to contact one or both Departments for further instructions. ***

NOTE: REFUSAL OF THIS CERTIFICATE MAY BE APPEALED BY FILING AN APPLICATION WITHIN 20 DAYS OF DENIAL

This application has been APPROVED ☒ REJECTED for issuance of a Zoning Certificate by the Xenia Township Zoning Inspector.

[Signature] 7-2-25 3:30
Xenia Township Zoning Inspector Date Time

NO REFUND WILL BE ISSUED FOR ANY REASON

Woodland Dr

122
122

Mower Garage

123
123A

124
124A



Public Access System (PAS)

GIS Data Hub

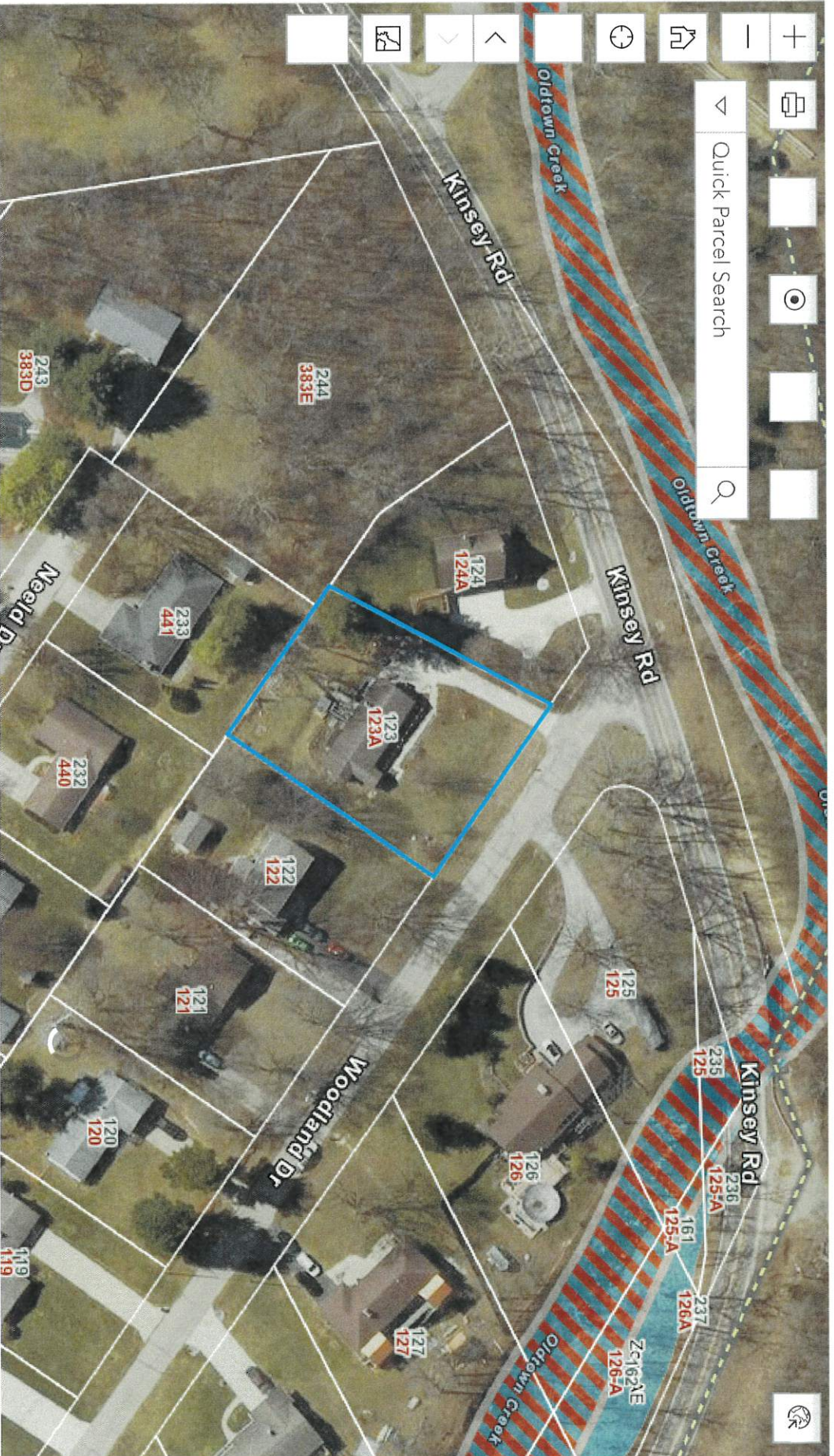
Contact Us

Help

About

ArcGIS Login

Geographic Information Management System



1 in. = 96'

1,569,138.945 x 27,573.611 Feet

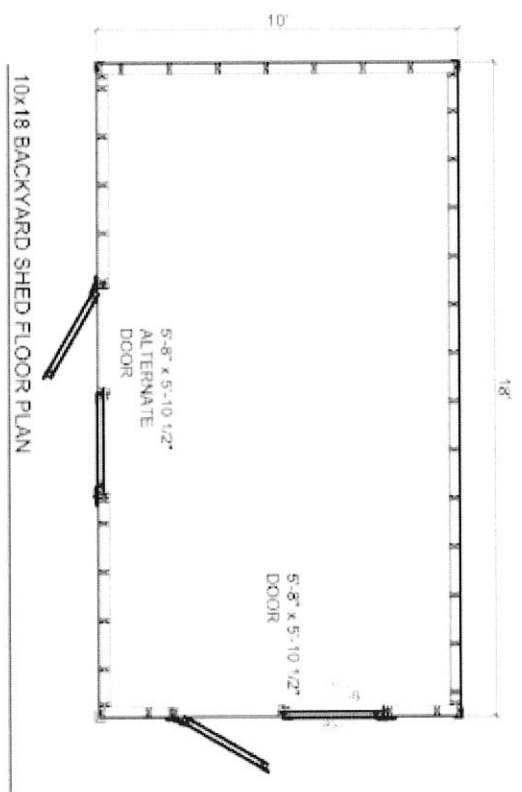
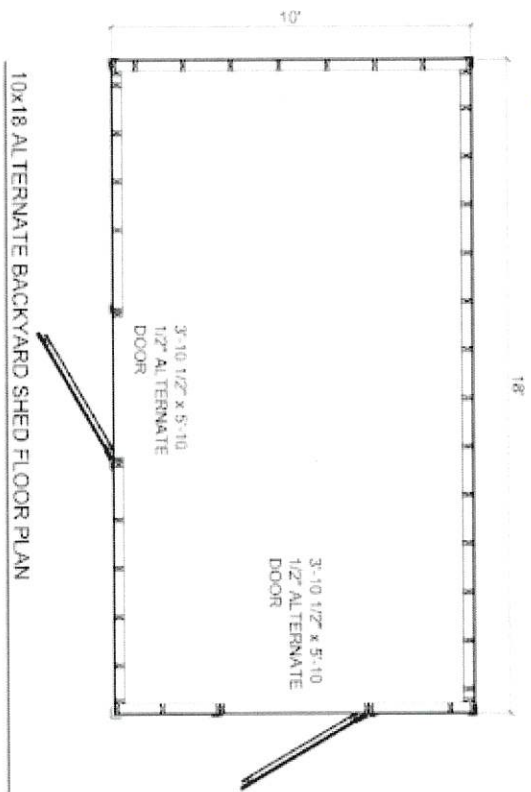
Tables

App State

Click to restore the map extent and layers visibility where you left off

13

10x18 Backyard Shed Plans Floor Plans







1141 Woodland BZA Variance Acc Bldg in Req Int Yard

Board of Zoning Appeals Procedure Checklist

Changes in the zoning text and changes in the zoning map (district change), follow the same procedure. The following checklist has been adopted from R.C. 519.12.

Item	Action	Date	Checked by
1	Initiation/Receipt of Zoning Appeal	2025.07.25	MK
2	Public Hearing date set for Board of Zoning Appeals to be set not less than twenty nor more than forty days form receipt of amendment.	2025.07.28	MK
4	Written notice to property owners for Board of Zoning Appeals Hearing within, contiguous to, and directly across the street from the land to be rezoned must be sent at least ten days before the public hearing if ten or fewer parcel of are proposed to be rezoned.	20250.8.13	MK
5	Publiaction of date on XTWP website	2025.08.11	MK
6	Publication of date by sign posted in aplicants yard	2025.08.12	MK/AS
7	Township Board of Zoning Appeals public hearing	2025.08.27	AS

Note: R.C. 5511.01 requires notification to the Ohio Department of Transportation before any amendment is approved which affects land near proposed new highways to planned improvements.

This outline and checklist of admendment procedures is provided for general use. Section 519.12 should be reviewed for specific language and current law.



Xenia Township

ALAN STOCK
Zoning Inspector
8 Brush Row Road
Xenia, OH 45385
(937)372-0859
FAX (937)372-3343
www.xeniatownship.org

ZONING COMMISSION

Terry Fife
Alan King
M. Cookie Newsom
Jeffrey Zweber

BOARD OF ZONING APPEALS

Nathan Anthony
Virgil Ferguson
Janis James
Darren Jones
Aidan Kolbe

August 15, 2025

NOTICE TO PROPERTY OWNERS OF A PUBLIC HEARING

Notice is hereby given that the Xenia Township Board of Zoning Appeals will hold a Public Hearing for consideration to issue a Variance of Section 504.3 Accessory Building In The Required Roadside Yard in the Residential District,

1141 Woodland Drive, Xenia, Ohio 45385, Parcel # M36-0002-0026-3-0123-00

PUBLIC HEARING WILL BE HELD ON THIS APPLICATION BY THE XENIA TOWNSHIP BOARD OF ZONING APPEALS

DATE: August 27, 2025

TIME: 6:00 p.m.

PLACE: Xenia Township Board of Trustees Office, 8 Brush Row Road, Xenia Ohio 45385

This notice is for the purpose of giving you and every other neighbor an opportunity to appear or to express your opinion at the hearing in support or in opposition to this consideration for this matter. You may come in person or authorize anyone else to represent you, or you may express your views in writing, but the letter must be received by the Board, in care of Alan Stock by mail at 8 Brush Row Road, Xenia, Oh 45385 or email astock@xeniatownshipoh.gov before the date of hearing.

The Hearing on this matter is not limited to those receiving copies of this notice. If you know of any neighbor or affected property owner who for any reason has failed to receive a copy of this notice, it would be appreciated if you would inform them of this hearing. Additional information concerning this request may be obtained during normal office hours at the Xenia Township Trustees' Office or online at www.xeniatownship.org or email astock@xeniatownshipoh.gov

XENIA TOWNSHIP BOARD OF ZONING APPEALS
Nathan Anthony, Chair
Alan Stock, Clerk
8 Brush Row Road
Xenia, OH 45385

A & T FARM LLC
5610 TIFFANY LN
SPRINGFIELD OH 45502

BD OF PARK DISTRICT
635 DAYTON - XENIA RD
XENIA OH 45385

ALICIA THOMPSON
PO BOX 790300
ST LOUIS MO 63101

BODEN ABRAHAM C
1131 WOODLAND DR
XENIA OH 45385

CAMILLERI BRUCE & BRETA B
1138 NEELD DR
XENIA OH 45385

FLETCHER LEONA
1133 NEELD DR
XENIA OH 45385

GREENE COUNTY BOARD OF
COMMISSIONERS
35 GREENE ST
XENIA OH 45385

HOWE PETER G
1151 WOODLAND DR
XENIA OH 45385

JOHNSON JAMES W & BEATRIX
1130 WOODLAND DR
XENIA OH 45385

JOHNSON SEARSA & SEAN
BRANNEN
1144 WOODLAND DR
XENIA OH 45385

KIPP TIMOTHY E & FRANCES A
1136 NEELD DR
XENIA OH 45385

MARTIN ADAM
1127 NEELD DR
XENIA OH 45385

MCFARLANE KENNETH &
MEGAN BODZICK
1141 WOODLAND DR
XENIA OH 45385-1443

MONTGOMERY BRADLEY & TAMI
1119 WOODLAND DR
XENIA OH 45385

MONTGOMERY BRADLEY & TAMI
1120 WOODLAND DR
XENIA OH 45385

MUTERSPAW KELLY J
1124 NEELD DR
XENIA OH 45385

PAGE TODD
1129 WOODLAND DR
XENIA OH 45385

PENEWIT MICHELLE & ROBER
1139 WOODLAND DR
XENIA OH 45385

PERKINS MARCUS & LISA HUBBARD
325 KINSEY RD
XENIA OH 45385

RIDGWAY ROBERT L
1125 WOODLAND DR
XENIA OH 45385

SHOEMAKER CHARLES & BEVERLY
1124 WOODLAND DR
XENIA OH 45385

SMITH CHRISTOPHER & CHRISTINE
1130 NEELD DR
XENIA OH 45385

SONNYCALB SUSAN B
1143 NEELD DR
XENIA OH 45385

STEPHAN PETER D & INGRID L
378 GREEN ACRES DR
XENIA OH 45385

STOREY PAUL R
1144 NEELD DR
XENIA OH 45385

TEST DUSTIN N & REBECCA K
377 GREEN ACRES DR
XENIA OH 45385

DELANEY BOBBY & CAROLYN
889 OAK DALE DR
XENIA OH 45385

1141 Woodland Dr BZA Sign

2025.08.12



Text

ATTENTION XENIA TOWNSHIP RESIDENTS:

The Xenia Township Board Zoning Appeals, Greene County, Ohio gives notice that a Public Hearing will be held on August 27, 2025 at 6:00 p.m. on the application received from Kenneth McFarlane, Owner, of 1141 Woodland Drive, Xenia, OH 45385 (Parcel # M36-0002-0026-3-0123-00), requesting a Variance of Section 504.3 for Accessory Building In The Required Roadside Yard in the Residential District. The hearing will be held at the Xenia Township Trustees' Office, 8 Brush Row Road, Xenia, OH 45385.

Interested persons may appear at this scheduled Hearing to express their opinion with respect to this requested Variance for Accessory Building In The Required Roadside Yard in the Residential District.

XENIA TOWNSHIP BOARD ZONING APPEALS

Nathan Anthony, Chair

Alan D. Stock, Clerk

8 Brush Row Road

Xenia, OH 45385

Divider

84°F
Sunny



Search



11:16 AM
8/13/2025



August 27, 2025
STAFF REPORT FOR PUBLIC HEARING AREA VARIANCE
SECTION 504.3 ACCESSORY STRUCTURE IN ROADSIDE
1141 Woodland, M36000200263012300
Zoned "R1", One Family Residential District

OVERVIEW of XENIA TOWNSHIP (XTWP) ZONING

Zoning in Xenia Township is based upon its adopted Zoning Resolution (established 1959, updated last 2019) and revolves around two basic concepts, Area and Use. Area looks at road frontage, area usually in units of acres, and setback from property lines. Use is determined by the District Intent and Purpose and split into two major areas, Permitted Principal Uses, and then Conditional Uses. Permitted Principal Uses require no further special Zoning permission while any Conditional Uses require a special, Public Hearing of a quasi-court called the Board of Zoning Appeals (BZA). Public Hearings for BZA matters are separately decided and do not include input from either the Zoning Commission or the Board of Trustees. The Township works in cooperation with Greene County Building Regulations, Greene County Health District, and Greene County Soil and Water Conservation District. XTWP does not have a Property Maintenance Code and is working on updating its Future Land Use Document.

Xenia Township Trustees and Xenia Township Trustees alone have 100% of the rights and responsibilities to create, maintain, and establish all Zoning Maps and text that governs the Zoning Resolution. All other parties merely make zoning text and map suggestions and recommendations. The current Trustees have stated publicly they would rather allow landowners to use their property as they see fit if it complies with the Zoning Resolution.

THE DUNCAN CRITERIA

In 1986 the Ohio Supreme Court oversaw the case of Duncan vs Middlefield. This case was due to the plaintiff, Duncan, requesting an area variance that was denied by the local Board of Zoning Appeals Board. Due to this case the Ohio Supreme Court has prescribed seven guidelines to follow in making the decision of granting an area variance. These seven guidelines are referred to as the Duncan Criteria and are listed as follows with the applicant's response:

<p>1. Whether the property in question will yield a reasonable return or whether there can be beneficial use of the property without the variance</p> <p>The Petitioner has established a reasonable return can be realized without the Variance.</p>	<p>Without the variance, the property owner is unable to place a shed in any functional or accessible area due to existing topography, mature trees, utility lines, and the layout of the principal dwelling. While the home itself is usable, the inability to place accessory storage severely limits the property's utility. The proposed shed is a modest structure intended for essential storage purposes and represents a reasonable use of the lot, enhancing its functionality and value.</p>
<p>2. Whether the variance is substantial</p> <p>The Variance would be a substantial change to the Zoning Resolution. The structure's placement in the required roadside yard would conflict with every other parcel in the neighborhood.</p>	<p>While numerically the reduction from a 10-foot to a 4-foot setback may appear significant, its practical impact is minimal. The shed is a small accessory structure, not a principal building, and is designed to be low-profile and visually unobtrusive. Additionally, the placement in the front yard is necessitated by physical site constraints. In context, this variance is not substantial when balanced against the limited scope and minimal visual or practical intrusion on adjacent properties. Many other properties in the area have buildings in similar setbacks including our next-door neighbors at 1144 Neeld Dr and 1138 Neeld Dr.</p>

<p>3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance</p> <p>The essential character of the neighborhood would visually be changed in order to place a structure in the restricted area in front of the residence.</p>	<p>No, Granting the variance and the placement of the shed will not alter the essential character of the neighborhood, nor would it cause substantial detriment to adjoining properties. It will be constructed with materials and colors consistent with and complimentary to the primary residence. No adjoining property will suffer any obstruction of view, loss of light, or encroachment on privacy. Furthermore, this shed's architectural style, building height, and orientation have been carefully designed to harmonize with neighboring homes. In fact, the variance would allow the development of a currently underutilized portion of this property, which could enhance rather than diminish the aesthetic and functional quality of the neighborhood.</p>
<p>4. Whether the variance would adversely affect the delivery of government goods</p> <p>The Petitioner's answer has satisfied this question.</p>	<p>No, the proposed variance will have no adverse effect on the delivery of governmental services, including emergency response, sanitation, utilities, or roadway maintenance. Ample clearance remains on both sides of the structure and neighboring buildings.</p>
<p>5. Whether the property owner purchased the property with knowledge of the zoning requirements</p> <p>The Petitioner's answer assumes the question is prejudicial to the outcome. It is not. See pages 27-29 regarding unnecessary hardships (... the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence. The ultimate question that must be asked is, "Is the property owner deprived of rights verses deprived of their desires?"). Practical difficulty may come into play, among other factors, if there are no other options.</p>	<p>Whether or not the applicant was aware of the applicable zoning regulations at the time of purchase, that awareness does not preclude relief, particularly where the strict enforcement of the zoning requirement would result in a practical difficulty or unnecessary hardship. Courts have long held that knowledge of the restriction does not by itself bar a variance where other equitable considerations are present. (Weiss v. Board of Zoning Appeals, 208 A.D.2d 862 (N.Y. App. Div. 1994, Anderson v. Board of Adjustment, 126 N.J. Super. 190 (App. Div. 1973, Devaney v. Board of Zoning Appeals, 199 Conn. 692 (1986)), Here, the unique lot conditions and the absence of any reasonable alternative support relief, regardless of prior knowledge.</p>
<p>6. Whether the property owner's predicament can feasibly be obviated through some other method than a variance</p> <p>The Petitioner already has reasonable use of the land. The Petitioner has other options to place an accessory structure, the end of the driveway preeminently.</p>	<p>No feasible alternative exists that would allow the property owner to make reasonable use of the land without a variance. Modifying the proposed structure to meet code would result in a nonfunctional structure, and reconfiguring the lot is not possible due to surrounding development, topography and lot lines.</p>
<p>7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance</p> <p>The Petitioner's request is in total opposition to the Zoning Instrument in the most protected District in the Resolution. This specific section was last discussed and updated for this same issue in 2024. No major changes, just clarifying language.</p>	<p>Granting the variance would uphold the spirit and intent of the zoning code, which is to promote orderly development, protect property values, and ensure reasonable land use. The relief requested is modest, justified by unique property characteristics, and would not create precedent for arbitrary exceptions. On the contrary, denial of the variance would result in an unjust and disproportionate hardship on the property owner, contrary to principles of substantial justice and equity.</p>



No variance in the strict application of this Resolution (600.8.5) shall be granted by the Board of Appeals unless and until the applicant submits, and the Board concurs, with the following:

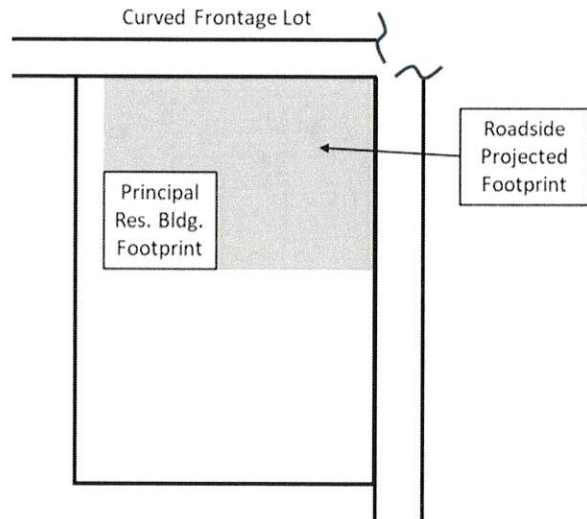
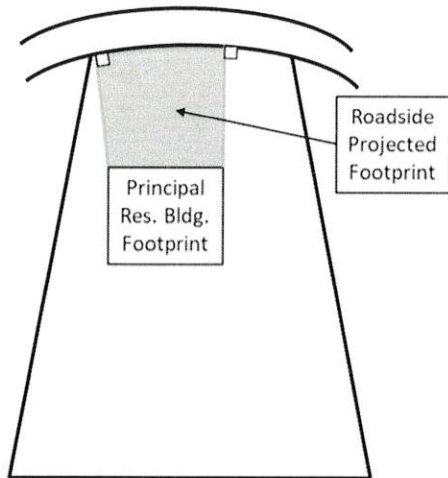
Conditions and Circumstances: What special conditions and circumstances exist which are particular to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.	The topography of this property, specifically in the rear and side yard, is laid out in such a way to provide water drainage from the hillside through it while channeling much of the drainage away from the existing house. This topography is unique in having a substantial overall slope and a layout that does not allow for level building construction without disturbing the drainage flow. There is one relatively flat spot, in the front side yard, where this shed/garage is proposed.
Property Rights: what literal interpretation of the provisions of the Zoning District's would deprive the applicant of property rights commonly enjoyed by other properties in the same district under the term.	A strict interpretation of the zoning ordinance, which restricts accessory structures from being located in the front or side yard, would deprive the property owner of the reasonable and common use of their property-specifically, the ability to construct a shed or garage for storage or utility purposes. Other property owners in the same zoning district are able to place accessory structures in compliant locations on their lots. Due to the unsuitable nature of the rear yard, this restriction would effectively deny the applicant the full use of their property in a manner consistent with how other similarly-zoned properties are used.
No Special Privilege: Why will granting the variance requested not confer on the applicant any special use of privilege denied by this Resolution to other lands, structures, or building in the same district.	Granting this variance would not confer any special privilege on the applicant that is denied to others in the same district. The request is solely due to the unique physical constraints of the lot and not based on personal preference or convenience. If other properties in the district were subject to similar/other physical limitations, they too would be eligible to request and potentially be granted a variance (see 1096 woodland dr.). This ensures equal application of the zoning rules while allowing reasonable use of land in special circumstances.
Harmony with Locality: Why will the variance requested not alter the essential character of the locality.	The requested variance will not alter the essential character of the locality. The proposed shed/garage will be constructed in a manner consistent with the appearance and style of neighboring structures and will not impact traffic, sight lines, or the visual integrity of the streetscape. Care will be taken to design the structure so that it complements the existing home and surrounding properties, maintaining the aesthetic and residential character of the neighborhood.

SECTION 504 ACCESSORY BUILDING

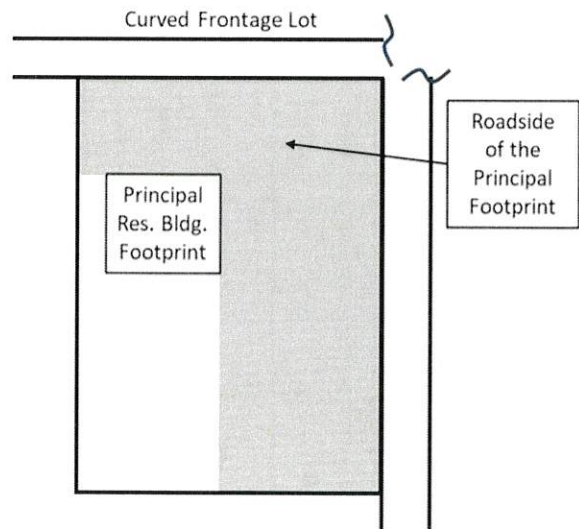
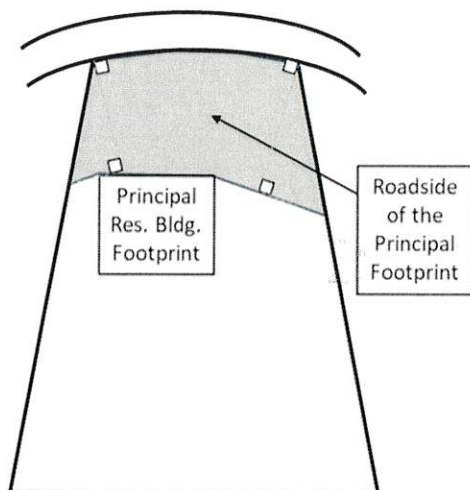
3. No part of any garage or accessory building footprint shall be on the roadside of the footprint of the principal building in any residential district.

SECTION 504 ACCESSORY BUILDING

1. No part of any garage or accessory building footprint shall be within a required interior yard or roadside yard in any district.
2. No part of any garage or accessory building footprint shall be in the yard created by a projection of the edge of the roadway to the footprint of the principal residential building in any non-residential district. For a corner lot, the projection shall extend to the intersection of the roads that create the corner. (See illustration)



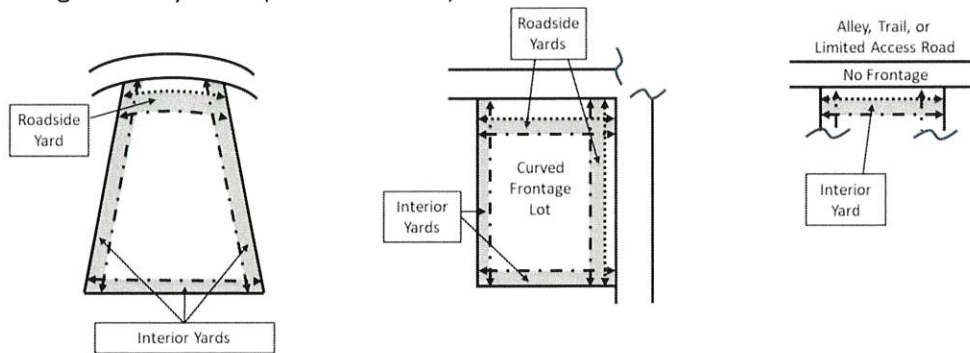
3. No part of any garage or accessory building footprint shall be on the roadside of the footprint of the principal building in any residential district. (See illustration)



Yard, Required:

The area of a lot bounded by the lot lines, right-of-way lines, and setback lines.

1. Roadside yard: Space between the right-of-way line, the road setback line and the adjacent lot or right-of-way lines. (See illustration).
2. Interior yard: Space between the lot line or right-of-way line, the interior setback line and the adjacent lot or right-of-way lines. (See illustration)



STAFF REPORT

The Petitioner owns roughly 0.45 acres in the "R-1" One Family Residential District with a single, residential structure.

In May, 2023, the owner replatted the parcel to include the driveway that had been built by a previous owner that was partly on the neighbor's lot.

In May, 2023 the owner received a zoning permit "work in the right a long" to fill-in the ditch in front of the property.

In July, 2025, a zoning application was denied to place a pre-fabricated, accessory structure in the required roadside yard. The applicant's request was to place a 10' X 18', 180 square feet, accessory structure in the required roadside yard, and to place it 4' from the property line instead of the required 10'.

The requested placement is 55 feet from edge of pavement, 40 feet from the right of way, row, (roadside setbacks are measured from ROW), 4' from the parcel lines.

Township zoning requires accessory structures to be in the rear of the property, no closer than 10' from the lot lines.

The BZA should consider the following:

1. The Xenia Township Zoning Resolution places the highest priority of protection and the highest standards on the Residential Districts.
2. This petitioner's home is located within the subdivision of Greene Acres. The subdivisions of Green Acres and Amlin Heights is actually comprised of five subdivisions with 300+ homes. Of the 300+ homes represented in these five neighborhoods, there is not one home with an accessory structure in the required roadside yard.
3. The subdivision's 1955 covenants expired in 1985 and while in effect, forbade structures other than a two-story house and a garage for no more than three vehicles, and no structure closer than 10' to property line.
4. Building an accessory structure is not a right of ownership.
5. Board of Zoning Appeals current decisions effect future owners, not just current owners, as well as all neighbors.
6. **Section 608.5 Variances.**
 - a. Conditions and Circumstances: That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 - d. Harmony with Locality: That the variance requested shall not alter the essential character of the locality

7. There is a substantial drop in the topography within the backyard of this lot, from 902 to 892 feet. However, this drop begins 28' from the rear property line on the rear- side of the home of the proposed variance.
8. There is room to the rear of the property for a 10' by 18' accessory structure in three places. Two of which would not require a variance from the rear property line. A third location would most likely require a variance from the rear, interior required yard requirement. The fourth location for an accessory structure would be where one was already located at the end of the driveway that is roughly 28 feet by 20 feet (see illustration, page 36).
9. The Petitioners not only desire to place the structure in the required front, roadside yard, but also four feet from the neighbor's property line in the front yard. There are multiple options for placement to the rear of the home.
10. While there is a limited space for accessory structures, behind the home, there are still multiple areas to place an accessory structure consistent within the Residential 1 standards. Even so, asking for a variance to the property line to the rear of the home is more desirable than placement in the front of the home. The size and configuration of the structure should match the space available.

The Staff Report concludes that this Petitioner's ask to place an accessory structure in the required roadside yard is a substantial request; is completely inconsistent with the Zoning Resolution; and, no cumulative or substantive reasoning to evoke Section 608.5 in the Zoning Resolution has been provided.

Respectfully,

Alan D. Stock
Zoning Inspector

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Seeking a Variation is a legal process that allows property owners to build structures or use land in a way that is contrary to the local zoning regulations. Variations are meant to be used sparingly.

Unnecessary Hardship Law and Legal Definition

Unnecessary hardship is a term commonly used in zoning law to justify the grant of a Variance from zoning regulations. The applicant must demonstrate that under applicable zoning regulations, the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence.

The following generally must be proven to show an unnecessary hardship:

- The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- That the alleged hardship has not been self-created.

Economic Hardship Law and Legal Definition

Economic hardship is defined as "the inability to meet "reasonable basic living expenses." Sykes v. Comm'r, T.C. Memo 2009-197 (T.C. 2009)

A Board of Zoning Appeals Must Consider

It is very important to consider what constitutes a practical difficulty or particular hardship. Unfortunately, there is more information about what is not a practical difficulty or particular hardship than there is to define one. This is probably because there are an infinite number of variation probabilities and scenarios.

The courts have ruled that a practical difficulty or particular hardship cannot be self-created, cannot be just showing that the property would be worth more if a variation were granted, and it cannot be just a demonstration that a property is better suited for a use that is prohibited than a use that is permitted.

In trying to define the practical difficulty or particular hardship the person making the decision on whether or not to support the variance will need to evaluate if:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located; or
2. The plight of the owner is due to unique circumstances; and that the Variation, if granted, will not alter the essential character of the locality;

The first test above essentially applies to the variety of uses that could be developed on the land. The applicant or owner must show more than a loss. The applicant or owner must demonstrate that there would be a loss or lack of reasonable return from each and every permitted use on the property. The second test implies that the hardship conditions shall not be generally applicable to a similar situation in the same zoning district. If that were the case, then the zoning of the district would be materially changed. Uniqueness relates to hardship, which refers to the land and not to the personal circumstances of the applicant or owner.

Furthermore, the Board of Zoning Appeals must also consider other standards when deciding on variations:

1. That the particular physical surroundings, shape or topographical condition of the specific property involved would bring particular hard-ship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulation were to be carried out;
2. That the conditions upon which the petition for Variation is based would not be applicable generally to other property within the same zoning district;
3. That the purpose of the Variation is not based exclusively upon a desire to make more money out of the property;
4. That the alleged difficulty or particular hardship has not been created by any person presently having an interest in the property or by the applicant;
5. That the granting of the Variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;
6. That the proposed Variation will not:
 - a). Impair an adequate supply of light and air to adjacent property;
 - b). Substantially increase the hazard from fire or other dangers to said property or adjacent property;
 - c). Otherwise impair the public health, safety, comfort, morals or general welfare of the surrounding residents;
 - d). Diminish or impair property values within the neighborhood;
 - e). Unduly increase traffic congestion in the public streets and highways;
 - f). Create a nuisance; or
 - g). Result in an undue increase in public expenditures;
7. That the Variation is the minimum Variation that will make possible the reasonable use of the land, building or structure.

A zoning Variation runs with the land indefinitely. This reinforces that variations should not be granted based on personal circumstances; while the people eventually will go away, the variation does not. The New York Supreme Court defined a variance as:

“An authority to a property owner to use the property in a manner forbidden by the ordinance.”

The owners seeking Variations are expected to bear a “higher burden of proof”. Where a request for a variation is not unique or changes the essential character of the area, the petitioner should

seek an amendment to the zoning code that would then apply throughout the district, rather than a variation. Variations are meant to be used sparingly, which is intentional as suggested in a reference from the case of *Real Properties v. Board of Appeals of Boston* that reads:

“The power of variances is to be sparingly exercised and only in rare instances and under exceptional circumstances peculiar in their nature and with due regard to the main purpose of a zoning ordinance to preserve the property rights of others.”

In conclusion, a hardship is not just ordinary inconvenience or difficulty and the owner must be able to show that there is an inability to make reasonable use of the land. The hardship or difficulty must be unique and should not generally apply to other properties. Hardships cannot be self-created, which even applies to action taken by previous owners, including work performed without a permit. According to the courts, a hardship does not include a potential for economic loss or less than maximum return. Finally, the use or modification must not alter the essential character of the area. The ultimate question that must be asked is “Is the property owner deprived of rights versus deprived of their desires?”

RESTRICTIVE COVENANTS

- 1- ALL LOTS IN THIS TRACT SHALL BE KNOWN AND DESCRIBED AS RESIDENTIAL LOTS. NO STRUCTURE SHALL BE ERRECTED ON ANY LOT OTHER THAN ONE DETACHED SINGLE FAMILY DWELLING, NOT TO EXCEED TWO STORIES IN HEIGHT AND A PRIVATE GARAGE FOR NOT MORE THAN THREE CARS.
- 2- NO BUILDING SHALL BE LOCATED NEARER TO THE FRONT LOT LINE OR NEARER TO A SIDE STREET THAN IS PERMITTED BY SETBACK LINES AS SHOWN.
- 3- NO BUILDING SHALL BE LOCATED NEARER THAN 10 FT. TO SIDE LOT LINE.
- 4- NO ONE STORY DWELLING SHALL BE CONSTRUCTED HAVING A GROUND FLOOR AREA LESS THAN 1200 SQ. FT., EXCLUSIVE OF OPEN PORCHES, GARAGES, DRIVEWAYS OR CARPORTS; ONE AND ONE HALF OR TWO STORY DWELLING SHALL BE CONSTRUCTED HAVING A GROUND FLOOR AREA LESS THAN 1000 SQ. FT. WITH THE SAME EXCLUSIONS.
- 5- NO BUILDING SHALL BE ERRECTED ON ANY LOT OF THIS SUBDIVISION UNTIL THE BUILDING PLANS, SPECIFICATIONS AND PLOT PLAN SHOWING THE LOCATION OF SUCH BUILDINGS HAVE BEEN APPROVED IN WRITING BY JAMES H. AMLIN, JANE E. AMLIN OR THEIR AGENT.
- 6- NO BUILDING SHALL HAVE AS ITS EXTERIOR; CEMENT OR CINDER BLOCK, CEMENT BRICK, PLYWOOD PANELS OR METAL PANELS.
- 7- UNTIL SUCH TIME AS A SANITARY SEWER SYSTEM SHALL HAVE BEEN CONSTRUCTED TO SERVE THE PROPERTIES WITHIN THIS TRACT, SEPTIC TANKS OR OTHER APPROVED SEWAGE DISPOSAL FACILITIES SHALL BE INSTALLED FOR EACH DWELLING IN THE AREA. SUCH SEWAGE DISPOSAL INSTALLATIONS SHALL BE OPERATED AND CONSTRUCTION, AND BE LOCATED ON THE INDIVIDUAL LOT AS TO BE APPROVED IN WRITING BY THE HEALTH AUTHORITY WITH JURISDICTION.

8-NO TRAILER, BASEMENT, TENT, SHACK, GARAGE OR OTHER NON-RESIDENTIAL STRUCTURE, ERECTED IN THIS TRACT BE USED AT ANY TIME AS A RESIDENCE, EITHER TEMPORARILY OR PERMANENTLY. NOR SHALL A SEMI-COMPLETED HOUSE BE USED AS A RESIDENCE BEFORE OR DURING COMPLETION.

9-NO NOXIOUS OR OFFENSIVE TRADE SHALL BE CARRIED ON UPON ANY LOT NOR SHALL ANYTHING BE DONE THEREON WHICH MAY BE OR BECOME AN ANNOYANCE OR NUISANCE TO THE NEIGHBORHOOD.

10-UTILITY EASEMENTS OR RIGHT OF WAYS, AS SHOWN, ARE DEDICATED FOR UTILITY INSTALLATION AND MAINTENANCE. EASEMENT WIDTH IS 10 FEET EXCEPT WHERE NOTED OTHERWISE.

11-NO LIVESTOCK OR POULTRY SHALL BE PERMITTED ON ANY LOT OF THIS SUBDIVISION.

12-THREE RESTRICTIVE COVENANTS ARE FOR THE BENEFIT OF ALL LOT OWNERS AND ARE TO RUN WITH THE LAND AND SHALL BE BINDING ON ALL PARTIES AND ALL PERSONS CLAIMING UNDER THEM UNTIL JANUARY 1st, 1975, AT WHICH TIME SAID COVENANTS SHALL BE AUTOMATICALLY EXTENDED FOR SUCCESSIVE PERIODS OF TEN YEARS, UNLESS BY VOTE OF THE MAJORITY OF THE THEN OWNERS OF SAID LOTS, IT IS AGREED TO CHANGE SAID COVENANTS IN WHOLE OR IN PART.

13- INVALIDATION OF ANY ONE OF THESE COVENANTS BY JUDGEMENTS OR COURT ORDER SHALL IN NO WISE AFFECT ANY OF THE OTHER PROVISIONS WHICH SHALL REMAIN IN FULL FORCE AND EFFECT.



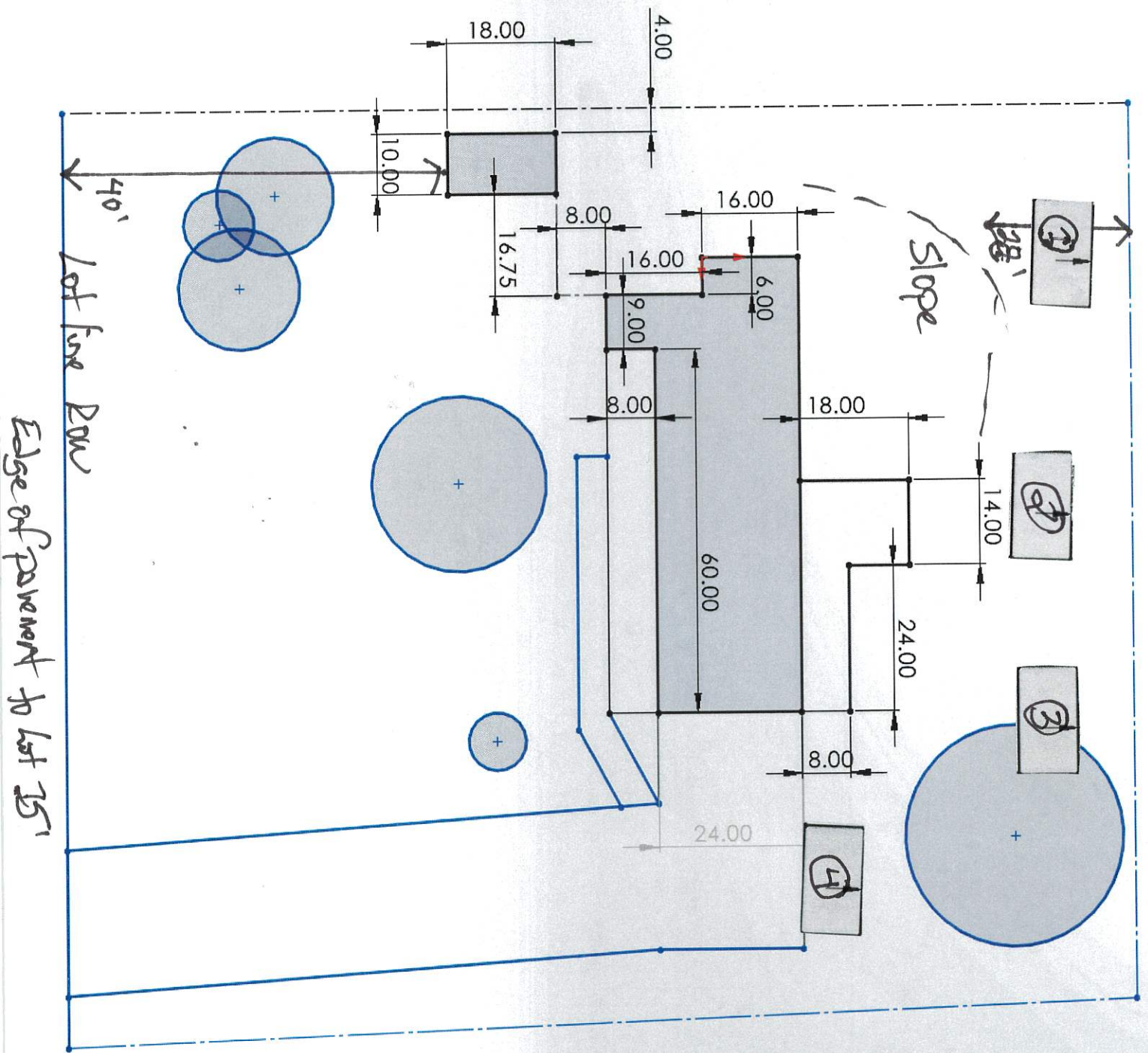
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1141 Woodland Property Pictures





XENIA TOWNSHIP BOARD OF ZONING APPEALS
PUBLIC HEARING AREA VARIANCE
SECTION 504.3 Accessory Structure in Roadside
1141 Woodland, M36000200263012300

Zoned "R1", One Family Residential District

August 27, 2025
6:00 P.M.

Call To Order with opening remarks, Chair Anthony

- Meeting Decorum
 - All presentations and comments are to be made to the Chair. Name and Address given for the record Comments made should reflect the purpose of the Public Hearing, not the character of any individuals or institutions.
 - Decisions will be made based on the merits of the Township Zoning Resolution and discussion of merit regarding a deviating from that Resolution or granting a conditional use provided for in that Resolution based upon conditions.
- Pledge of allegiance. Raise hand for Swearing-in for all wishing to give public testimony
- Roll Call of Board Members Present
 - Nathan Anthony
 - Virgil Ferguson
 - Janis James
 - Darren Jones
 - Aidan Kolbe
- Acknowledgment
 - Alan Stock, Zoning Inspector
- Question to Board Members of preparedness or potential conflict
- Confirmation of Process and Notification, Zoning Inspector Stock
 - Reading request into minutes
 - Process Verification with Exhibit identification
- Presentation of Petitioner, 15 minutes
- Clarifying questions from the Board
- Opening Public Discussion _____
 - Those desiring clarification questions or provide a general statement
 - Those in Opposition of the Variance
 - Those in Favor of the Variance
 - Any final clarification questions from Board members
- Public Discussion Closed _____
- Board Members Open Discussion or Executive Session for Discussion
- Motion with potential conditions addressed by _____ Seconded by _____
- Board Vote with explanations
 - Nathan Anthony Y|N
 - Virgil Ferguson Y|N
 - Janis James Y|N
 - Darren Jones Y|N
 - Aidan Kolbe Y|N

Meeting Adjourned: _____ pm

Meeting Continued until: _____, 2025, _____ p.m. at 8 Brush Row Rd

