

Zoning Certificate

Xenia Township

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



Certificate Number: 2019384

ADDRESS: 2126 US 68

PARCEL NO.: M36000100130002700

ZONING: A

ISSUED TO: SCOTT HAMMOND
2126 US 68
XENIA OHIO 45385

PERMIT TYPE: Board of Zoning Appeals

DETAILS VARIANCE FOR LOT SIZE

PERMIT DATE: 11/02/2021

FEE: 300.00

EXPIRE DATE: 11/02/2022

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.

APPROVED BY:

DATE:

Zoning Inspector

November 02,
2021



**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: HYDEBROOK FARMS LLC / SCOTT HAMMOND Phone: 937-416-1224
Address of Property: 116 CLIFTON RD E 2126 US RTE 68 City: XENIA Zip: 45385
Acreage of Property: 53.27 ACRES Parcel Number: M36000100130002700
Owner Address: 665 E HYDE RD City: YELLOW SPRINGS State: OH Zip: 45387

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

SEE ATTACHMENTS

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
2. Whether the variance is substantial
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
4. Whether the variance would adversely affect the delivery of government goods
5. Whether the property owner purchased the property with knowledge of the zoning requirements
6. Whether the property owner's predicament can feasibly be obviated through some other method than a variance
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance

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

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.

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.

Scott A. Hammer

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 or lessee)

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



Melissa Krause

NOTARY PUBLIC

STATE OF OHIO

My Commission Expires

August 14, 2024

Scott A. Hammer

Applicant(s) Signature(s)

Sworn to before me by the said Scott Hammer and by him/her subscribed in my

presence this 2nd day of November, 2021.

My Commission expires August 14, 2024.

Melissa Krause
Notary

Rationale for Xenia Township Area Variance Request

Hydebrook Farms L.L.C. (Hammond Family) has owned and farmed the Parcel #M36000100130002700 since the 1940s. This Parcel consists of 53.27 acres (See Map 1) that is divided in two by the bikeway right-of-way. The western portion includes two adjacent houses and one barn at the addresses of 16 Clifton Road and 2126 U.S. Rt. 68 which were established prior to zoning requirements and have been maintained as rentals for several decades. The two house (and barn) properties cover approximately 4 acres of the Parcel's total 53.27. Locations of these dwellings on the larger Parcel are shown in Map 1. Photos of the houses and barn are shown in Figure 1.

The Owner now wants to focus mainly on farming and relieve his family of the long-term responsibilities of managing these 2 rental properties. Over time it has simply become not viable economically to continue to maintain and rent these properties. If individual parcels can be established for each they can eventually be sold as single family dwellings. The Owner wants to preserve the surrounding farmland and establish individual parcels for the houses based on the land that they currently occupy and require. Meeting Xenia Township's minimum lot area of 5 acres would consume much more of the Parcel's farmland than necessary and in fact would make the remaining farmland more difficult to farm due to access and machinery maneuverability issues.

The Owner therefore requests a variance from Xenia Township's minimum 5 acre lot area requirement. The Owner proposes that a 2 acre parcel (lot) be established for each house. With 2 acre lots, the Township's requirement of a minimum of 300 feet frontage will still be met. The proposed boundaries of the house parcels are shown in Maps 2, 3 and 4.

In support of the variance request the Owner would like to make the following points.

1. Hydebrook Farms LLC is primarily an agricultural operation and therefore wants to maintain as much cultivatable and accessible farmland acreage as possible. This goal is in agreement with the Xenia Township's Land Use Plan which has farmland preservation as one of its primary goals.
2. Granting a variance will not affect the neighborhood in any negative manner. The houses and their yards will continue to use the same amount of land that they always have. If the houses can be put on their own parcels they can eventually be sold. New private ownership in the long term may improve condition of

3. residences beyond what is currently possible as well as promote longer term residency. Current land uses will basically remain the same.
4. Requiring the Owner to establish 5 acre lots will effectively prohibit accessibility to the farmland from Clifton Road where farm machinery currently gains access. Access to the farmland along Route 68 is already complicated by a very steep slope and a larger lot size will only decrease that access. Machinery will be forced to enter the fields from Route 68 at the northwest corner of the Parcel which is also steep and frequently flooded or saturated and often blocked by cars and trucks parked for Little Miami River access.
5. Much of the northern section of the large Parcel is in the designated floodplain. Agriculture is the best use for this land. The Owner does not wish to sell lots that contain floodplain.
6. The Owner's proposed 2 acre lots with a minimum of 300 feet of frontage are considerably larger than the house lots directly across Route 68 to the west.
7. The proposed 2 acre lots will adhere to all the building setbacks required by Xenia Township.
8. Both residences have their own wells and septic systems which are currently in working order. The Owner has coordinated with personnel in the Environmental Division of Greene County Public Health and they have indicated that there appears to be sufficient sewage leach field replacement area for both houses on the proposed 2 acre lots. If necessary, they have offered to provide a letter expressing this opinion. If the variance is granted the Owner will pursue a formal lot split review with Greene County Public Health as required.
9. If the Owner is not granted the variance it will not be possible to sell the houses without also diminishing amount of farmland in the Parcel. This will create an undue burden on the Owner who wants to focus on farming and no longer wants to maintain rentals. Without the variance the owner has little incentive to make needed renovations to the house and barn at 2126 U.S. Route 68. The house at 16 Clifton Road may simply be closed up unless responsible long-term tenants can be found.

Responses to Duncan Criteria Questions

- 1) Maintaining and renting the two houses on the larger agricultural Parcel has increasingly become less viable economically. In recent years it has become increasingly difficult to find responsible long-term tenants. Hiring a rental property manager is cost prohibitive. While the house at 16 Clifton Road has been completely renovated the other house at 2126 U.S. Route 68 is in need of renovation. The Owner no longer has the desire, personnel or funds to continue to maintain these rental properties. The most feasible economic solution is to split the houses off of the larger Parcel so that they may be sold.
- 2) The variance is not substantial. The request is to merely establish individual parcels for each house on the land that they have already occupied and used for many decades. The Township's existing frontage requirements will be met. The requested 2 acre lot size is considerably bigger than other housing parcels in the immediate area. If a larger lot size is required the result will consume valuable farmland and make access to the remaining farmland very difficult and possibly not cost effective to continue farming.
- 3) The character of the neighborhood will remain unchanged. It is possible that the anticipated conversion from rentals to owner occupied housing will add stability to the neighborhood through longer term residency.
- 4) The variance will not adversely affect the delivery of government goods. There will be no change to the delivery of services such as fire, emergency, and mail.
- 5) The Parcel in question was purchased prior to the mid-1900s when multiple houses were often built on farm parcels and there were few zoning requirements. When the Parcel was purchased it already contained the two houses (and barn). When the Parcel was purchased the Owner certainly had no idea of future zoning requirements or limitations that might be established.
- 6) The only way to remedy the Owner's predicament of selling the two house properties and simultaneously protecting valuable farmland is to grant the variance. The houses cannot be sold unless they are on their own parcels and the establishment of 5 acre parcels will unnecessarily consume valuable farmland.
- 7) By granting the variance, the spirit and intent of Xenia Township's Zoning resolution and its Agricultural District guidelines will be met. Productive farmland and soils will

be preserved, floodplain protected, existing rental houses will be made available for owner-occupied single family housing, and there will be no adverse change in the neighborhood. In addition, the Owner will be no longer be in the predicament of having to sell a large Parcel of farmland simply to relieve his family of the burden of managing 2 rental properties into the future.

Answers to Xenia Township Zoning Resolution Standards

- 1) Conditions and Circumstances. The special condition that exists now was once a very common practice prior to zoning requirements. The Parcel in question with farmland and two houses on a single parcel was established prior to there being any zoning standards. In order to protect valuable farmland from being sold or lost by requiring 5 acre lot sizes, it is more feasible in this instance to allow for a smaller 2 acre lot size, which the houses already occupy. This will allow the rental houses to eventually be sold as private residences and protect the rest of the farmland in the balance of the current Parcel. In addition, the northwest portion of the Parcel is in designated floodplain. A 5 acre minimum lot size for the house and barn at 2126 U.S. Route 68 would encroach upon that floodplain.
- 2) Property Rights. A literal interpretation of the provisions of the Xenia Township Zoning code, i.e. minimum 5 acre lot acreage, would mean that Hydebrook Farms would have to subdivide and lose a significant amount of valuable farmland merely to be able to sell two houses and a barn which were originally included in the Parcel. This seems contraindicated when the houses could be established on 2 acre parcels that would not pose any problem to the environment, not adversely affect the neighborhood, and conserve valuable farmland.
3. No Special Privilege. In the opinion of the Owner, being able to conserve farmland and sell existing houses that have not previously been parceled is not a special privilege. If anything, extending the requested variance helps to clear up a common circumstance that predates zoning and allows owners to fully realize their land's potential. Without the variance, Hydebrook Farms is forced to possess housing that is no longer in its interest to maintain.
4. Harmony. As stated previously herein, the granting of the variance will in no way negatively affect the character of the surrounding neighborhood. The houses will continue to occupy lands that they have always occupied and the surrounding farming will continue as always. Allowing the houses to be parceled and eventually sold may, in fact, result in the houses being upgraded. In addition, owner occupied houses add stability to the neighborhood when compared to rental housing. There will be no conflicts with the Township Comprehensive Plan and the goal of preserving farmland will be met.

Hydebrook Farms L.L.C.

Photos of Properties

16 Clifton Road



2126 U.S. Rt. 68



Map 1 Hydebrook Farms Parcel M360000100300002700



1 inch = 400 feet







Greene County Legend

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

This map was prepared as the tax map for Greene County as prepared by the Greene County Engineer in accordance with Section 5713.09 of the Ohio Revised Code. Greene County assumes no legal responsibility for the information contained on this map. Users noting errors or omissions are encouraged to contact the Greene County GIS Department.

Proposed Lot Boundaries



1 inch = 135 feet

Greene County Legend

This map was prepared as the tax map for Greene County as prepared by the Greene County Engineer in accordance with Section 5713.09 of the Ohio Revised Code. Greene County assumes no legal responsibility for the information contained on this map. Users noting errors or omissions are encouraged to contact the Greene County GIS Department.

Map 3 Proposed 16 Clifton Rd. Lot



Greene County Legend

1 inch = 81 feet



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

This map was prepared as the tax map for Greene County as prepared by the Greene County Engineer in accordance with Section 5713.09 of the Ohio Revised Code. Greene County assumes no legal responsibility for the information contained on this map. Users noting errors or omissions are encouraged to contact the Greene County GIS Department.

Map 4

Proposed 2126 Rt. 68 Lot



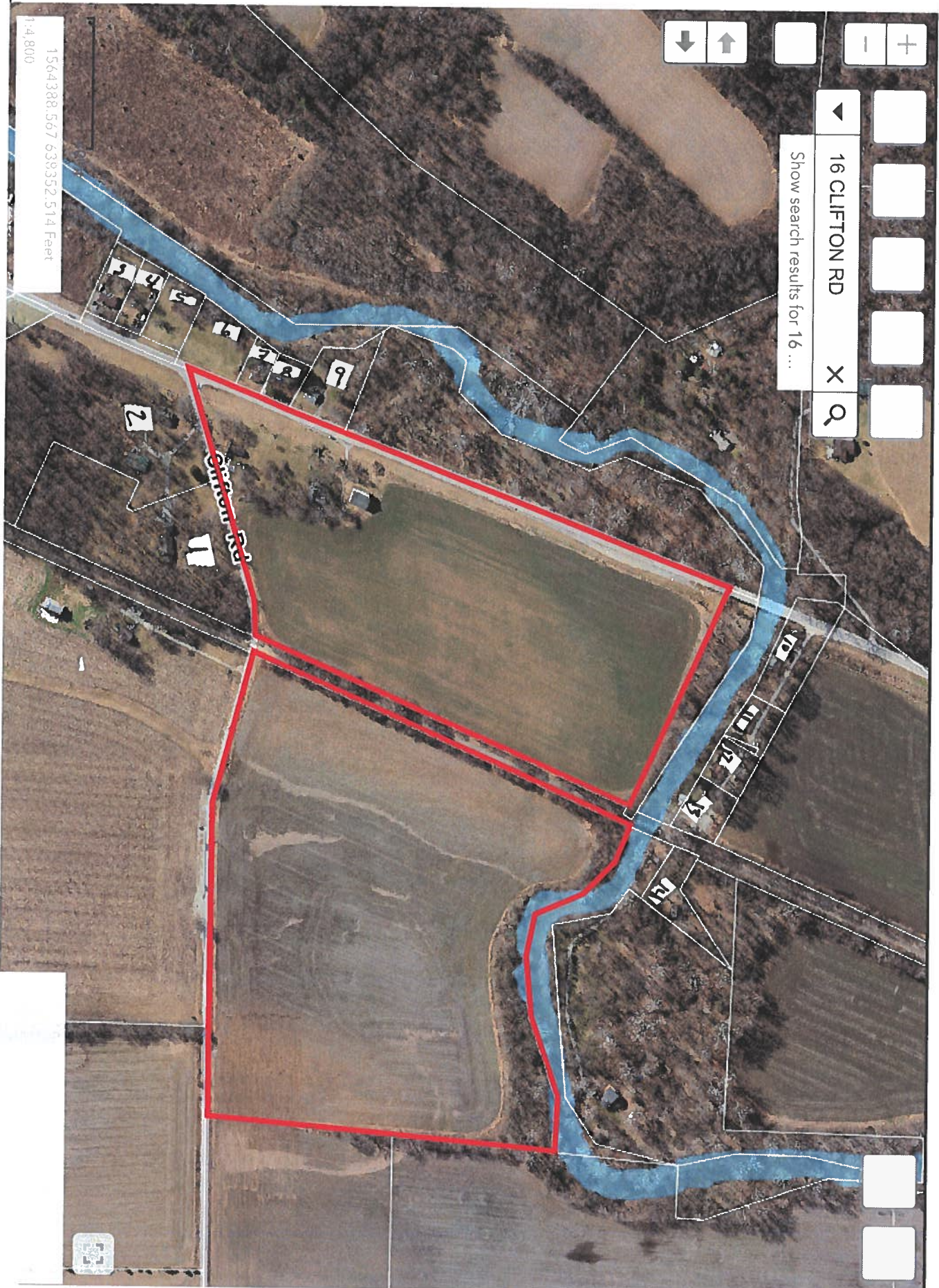
Greene County Legend

1 inch = 81 feet

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



This map was prepared as the tax map for Greene County as prepared by the Greene County Engineer in accordance with Section 5713.09 of the Ohio Revised Code. Greene County assumes no legal responsibility for the information contained on this map. Users noting errors or omissions are encouraged to contact the Greene County GIS Department.





Feature Information

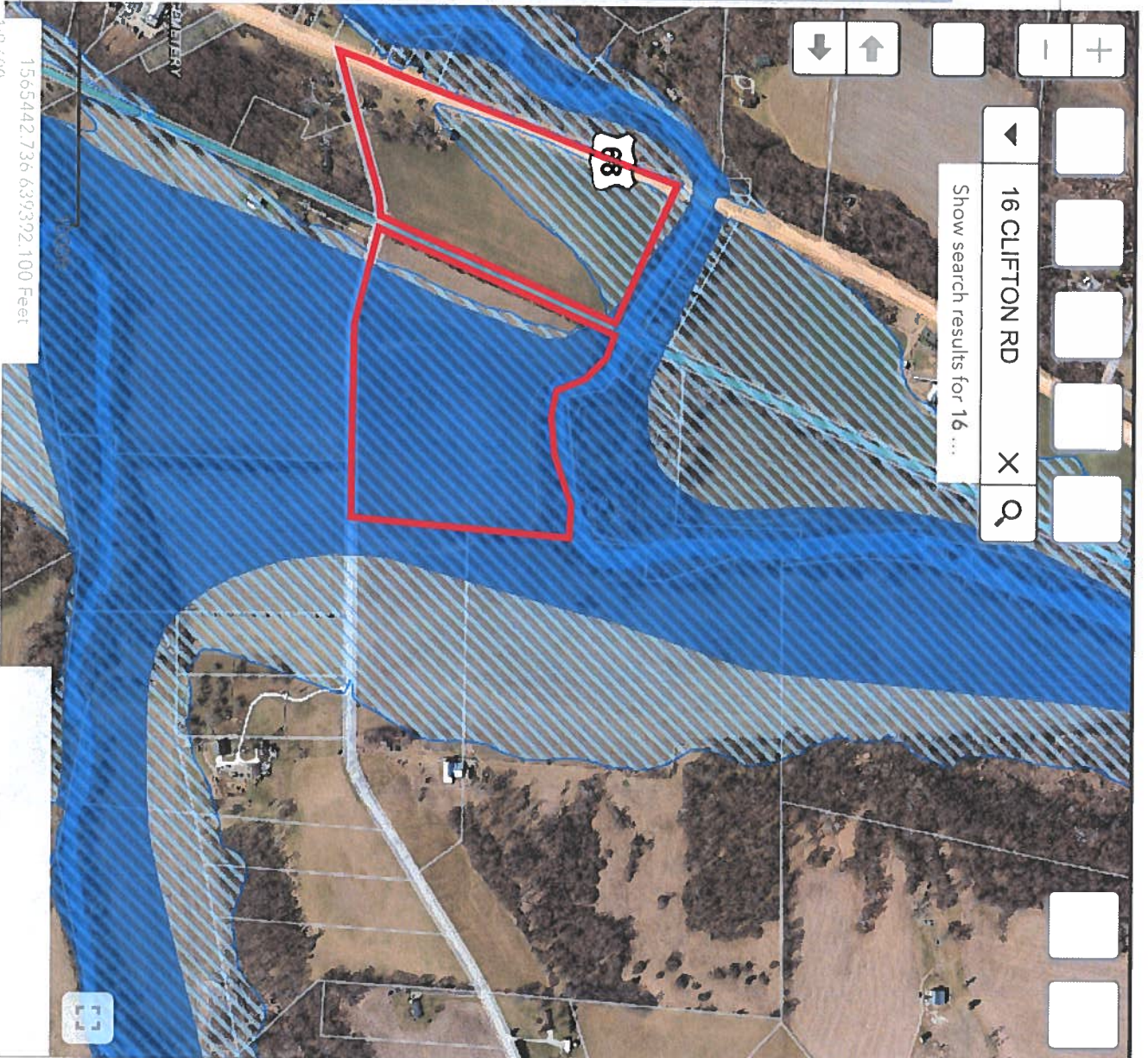
Property Info

Building Info

Deed Info

Permit Info

PARCEL ID: M36000100130002700
OWNER(S): HYDEBROOK FARMS LLC
PROPERTY ADDR: 2126 US 68
MAILING ADDR: 665 E HYDE RD
YELLOW SPRINGS OH 45387
LEGAL DESC: 389
AT CLIFTON RD
2126 US 68 N
CLASS: AGRICULTURAL
LAND USE: 111
ACRES: 53.2700
APPRAISED LAND: \$392,460.00
APPRAISED BLDG: \$130,640.00
APPRAISED TOTAL: \$523,100.00
ASSESSED TOTAL: \$183,080.00
TOTAL TAXES: \$4,807.26
TAXES OWED: \$0.00
DELINQUENT TAXES: \$0.00
SALE DATE: N/A
SALE PRICE: \$0
DEED REFERENCE: 1778 / 0131
PLAT CAB/PG: N/A
PLAT BOOK/PG: N/A
PLAT NAME: N/A
SURVEY RECORD: 008 / 0201
NEIGHBORHOOD: 00136000
....



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	2021.11.02	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.	2021.11.03	AS
3	Newspaper notice for Board of Zoning Appeals of Public Hearing must be published at least ten days prior to the hearing in a newspaper of general circulation in the township.	2021.11.04 2021.11.04	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.	2021.11.04	MK
5	Publiaction of date on XTWP website	2021.11.04	MK
6	Publication of date by sign posted in aplicants yard	2021.11.05	MK
7	Township Board of Zoning Appeals public hearing	2021.11.17	

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.

2021.11.05 16 Clifton Sign



needing agent for office
needed to live on site &
maintain section 8
community.
Maintenance exp. required/
with own tools.
Couple preferred.
Apartment + salary.
Call 937-382-6342 for more
information. EOE.

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Free estimates Fully Insured
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Tree Service

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LEGAL NOTICE

The Xenia Township Board Zoning Appeals, Greene County, Ohio gives notice that a Public Hearing will be held on November 17, 2021 at 6:00 p.m. on the application owner of 16 Clifton and 2126 US 68 N, Xenia, OH 45385 (Parcel # M36000100130002700), requesting a Variance of Section 404 for Minimum Lot Area in Agricultural 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 to Minimum Acreage.
XENIA TOWNSHIP BOARD ZONING APPEALS
Philip Jacobson, Chair
Alan D. Stock, Clerk
8 Brush Row Road
Xenia, OH 45385
Pub: November 6, 2021
90135154

Buckeye
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WINDOWS • DOORS
KITCHENS • BATHS
SUNROOMS • AWNINGS
GUTTERS • SOFFIT
METAL ROOFING • RAILING

LEGAL NOTICE

The Xenia Township Board Zoning Appeals, Greene County, Ohio gives notice that a Public Hearing will be held on November 17, 2021 6:00 p.m. on the application received from Joseph Bates, owner of 2113 US 68 North, Xenia, OH 45385 (Parcel # M36000100130000200 and M36000100130000300), requesting a Conditional Use of Section 400.4 for Bed and Breakfast. 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 Conditional Use for Bed and Breakfast.
XENIA TOWNSHIP BOARD ZONING APPEALS
Philip Jacobson, Chair
Alan D. Stock, Clerk
8 Brush Row Road
Xenia, OH 45385
Pub: November 6, 2021
90135153

LEGAL NOTICE

The Board of Zoning Appeals of Sugarcreek Township, Greene County, Ohio, will hold a Public Hearing on Thursday, November 18, 2021 at 7:00 p.m. at the Sugarcreek Township Administration Office, 2090 Ferry Road, Bellbrook, Ohio, for **BZA Case 13-2021**. The purpose of the hearing is to consider an application for a variance under Article 3.07 D. of the Sugarcreek Township Zoning Resolution described as follows:

BZA 13-2021: Applicants, Daniel and Kelly McMaster, are requesting a Variance from Section 4.13, Table 4-6 of the Sugarcreek Township Zoning Resolution to allow for the construction of an inground swimming pool in the side yard of the subject property. The subject property is 2959 River Edge Circle, parcel L32000200240013600, owned by Daniel and Kelly McMaster, containing 2.0650 acres and located in the E (Estate Residential) District.

The application is available for public examination at the Sugarcreek Township Administration Office, 2090 Ferry Road, Bellbrook, Ohio during regular business hours from 8:00 a.m. to 4:30 p.m., Monday through Friday. The application may also be examined by appointment by calling 937-848-8426.

Cara K. Tiford, AICP
Director of Planning and Zoning
PUB: November 6, 2021
90135152

Classified Advertising DELIVERS

ATTENTION XENIA TOWNSHIP RESIDENTS:

Xenia Township Board of Zoning Appeals will be holding two (2) hearings on November 17, 2021 at 6:00 PM

Application received from Hydebrook Farms LLC, owner of 16 Clifton and 2126 US 68 N, Xenia, OH 45385 (Parcel # M36000100130002700), requesting a Variance of Section 404 for Minimum Lot Area in Agricultural District.

Application received from Joseph Bates, owner of 2113 US 68 North, Xenia, OH 45385 (Parcel # M36000100130000200 and M36000100130000300), requesting a Conditional Use of Section 400.4 for Bed and Breakfast.

The hearing will be held at the Xenia Township Trustees' Office, 8 Brush Row Road, Xenia, OH 45385.





Xenia Township

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

November 4, 2021

ZONING COMMISSION

Roy Colbrunn
Virgil Ferguson
Alan King
Jeffrey Zweber

BOARD OF ZONING APPEALS

Nathan Anthony
Janis James
Philip Jacobson
Darren Jones
Brian Secor

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 404 for Minimum Lot Area in the Agricultural District,
16 Clifton and 2126 US 68 N, Ohio 45385, Parcel # M36000100130002700.

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

DATE: November 17, 2021 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 rezoning. 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 RD, Xenia, Oh 45385 or email astock@xeniatownship.org 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@xeniatownship.org

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

2001 MINI LLC 2001 US 68 N XENIA OHIO 45385	GEER JAMES M 2242 US 68 YELLOW SPRINGS, OH 45387	
JMT REAL ESTATE 2911 SUTTON YELLOW SPRINGS, OH 45387	PHIPPS VICKIE L TRUSTEE 2269 US 68 N YELLOW SPRINGS, OH 45387	
LONG JOHN D 2071 US 68 N XENIA OHIO 45385	JOSEPH BATES 1920 WILBERFORCE-CLIFTON XENIA OHIO 45385	
H M C CORP 83 CLIFTON RD XENIA OHIO 45385	STEVE WESTGERDES 236 N ALPHA BELLBROOK BEAVERCREEK OHIO 45434	
JON ELLIS 55 CLIFTON RD XENIA OHIO 45385	LITTLE MIAMI INC 6040 PRICE RD MILFORD OHIO 45150	
BRETT ELLIS 17 CLIFTON RD XENIA OHIO 45385	MICHAEL LAWLER 2816 PRATT PL JACKSONVILLE, FL 32259	
NANCY HARNER 2129 US 68 N XENIA OHIO 45385	LAVENA LIGHTENFELS 2244 US 68 N XENIA OHIO 45385	
HYDEBROOK FARMS LLC 665 E HYDE YELLOW SPRINGS, OH 45387		
ROBERT DEGENHART 2222 US 68 N YELLOW SPRINGS, OH 45387		

November 17, 2021

STAFF REPORT FOR 2126 US 68/16 CLIFTON ROAD PETITION MINIMUM ACREAGE NOT MET, SECTION 400.7

2126 US 68/16 Clifton Rd, M36000100130002700, Zoned Agricultural 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:

1. Whether the property in question will yield a reasonable return or whether there can be beneficial use of the property without the variance
2. Whether the variance is substantial
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
4. Whether the variance would adversely affect the delivery of government goods
5. Whether the property owner purchased the property with knowledge of the zoning requirements
6. Whether the property owner's predicament can feasibly be obviated through some other method than a variance
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance

FIVE (5) ACRE LOT AGRICULTURAL DISTRICT

SECTION 404 - SCHEDULE OF YARD AND LOT REQUIREMENTS ZONING DISTRICTS AND DWELLINGS

DISTRICT	MIN. LOT AREA PER FAMILY	MIN. ROAD FRONTAGE	MIN. FRONT YARD SET- BACK	MIN. REAR YARD SET- BACK	MIN. SIDE YARD SET- BACK	SUM OF SIDES SET- BACK MIN.	MIN. LIVING AREA PER UNIT SQ. FT.	WATER, SEPTIC & SEWER FACILITIES
A	5 Acres (1) (3)	300 ft.	70	40	40	80	1800	ON-SITE

The Xenia Township Zoning Resolution includes the minimum acres, road frontage, and setbacks for structures for each parcel in the Agricultural District. The applicant desires to create three (3) parcels from the single parcel now on record. The GIS map shows the single, current-parcel of 53.26 acres split by the bike path. It is interesting to note that here is no access to either side of parcel from the bike path as there are in many other parcels along the bike path.

The applicant desires to create two parcels of 2.3+/- acres, and one of approximately 47.74 acres. Both of the smaller parcels have structures, one a resident and a barn, the other a resident.

STAFF FINDINGS

As presented, each of the three, newly created parcels will more than meet the minimum road frontage. Of the 14 surrounding Agricultural parcels, only two meet the minimum acres (9.67 and 5 acres) and road frontage. The other 11 parcels have from .312 acres to 1 acre.

The two smaller, proposed parcels have structures that will meet the minimum setbacks within the smaller Ag dimensions.

Xenia Township's Future Land Use Plan places a high value on preserving tillable farm land. The proposed area variance maximizes this preservation with the remaining acreage following the natural tree line allowing for maximum tillage.

Of the 23.6 total acres on the west side of the bike path, 10.4 acres are in the flood plain. Creating two, five (5) acre lots would be problematic to both the shape and use of the land for the new owners.

If the area variance is permitted, it is suggested the applicant have no more than two (2) months to have the parcel's soil tested and areas approved for a future, suitable septic system or alternative, on both parcels with the Greene County Combined Health District. If the Health District reverses its casual, earlier rendering for the Public Hearing, the variance should be null and void.

If the area variance is permitted, it is suggested the applicant have no more than six (6) months to have the lands surveyed and registered with the County.

The area variance requested does not confer on the applicant any special use or privilege to other lands, structures, or building in the same District.

Respectfully,

Alan D. Stock
Zoning Inspector

16 CLIFTON RD SURROUNDING PROPERTIES

	ADDRESS	ROAD FRONTAGE	ACRES
1	55 CLIFTON	484	5
2	17 CLIFTON	782	9.697
3	2051 US 68	82	0.43
4	2071 US 68	85	0.41
5	M36000100130008300	129.24	0.56
6	M36000100130000400	192.6	0.9
7	2113 US 68	82.5	0.312
8	M36000100130000300	93.31	0.353
9	2129 US 68	181.4	1
10	2214 US 68	134.9	0.96
11	2242 US 68	157	0.4
12	2236 US 68	137.2	0.43
13	2222 US 68	159.72	0.554
14	2202 US 698	100	1