



City of Vandalia Board of Zoning Appeals

Regular Meeting Agenda

March 12, 2025

Council Chambers

<https://us02web.zoom.us/j/7206872780?omn=89298680042>

6:00 p.m.

1. Call to Order
2. Attendance
3. Old Business
4. New Business
 - a. **BZA 25-0003 Six Foot Fence in Zone A – 320-326 Dellsing Drive**
5. Approval of Minutes
 - a. **Board of Zoning Appeals Minutes: February 26, 2025**
6. Communications
7. Adjournment

MEMORANDUM

TO: Board of Zoning Appeals
FROM: Ben Graham, Zoning and Planning Coordinator
DATE: March 7, 2025
SUBJECT: **BZA 25-0003** – 320-326 Dellsing Drive - Variance from City Code Section 1224.01(e)(9)(D)(iii) “Six Foot Fence in Zone A”

General Information

Applicant: Jonathan Frederick
326 Dellsing Drive
Vandalia, Ohio 45377

Existing Zoning: Residential Single-Family (RSF-3)

Location: 320-326 Dellsing Drive
Vandalia, Ohio 45377

Previous Case(s): None

Requested Action: Recommendation to City Council

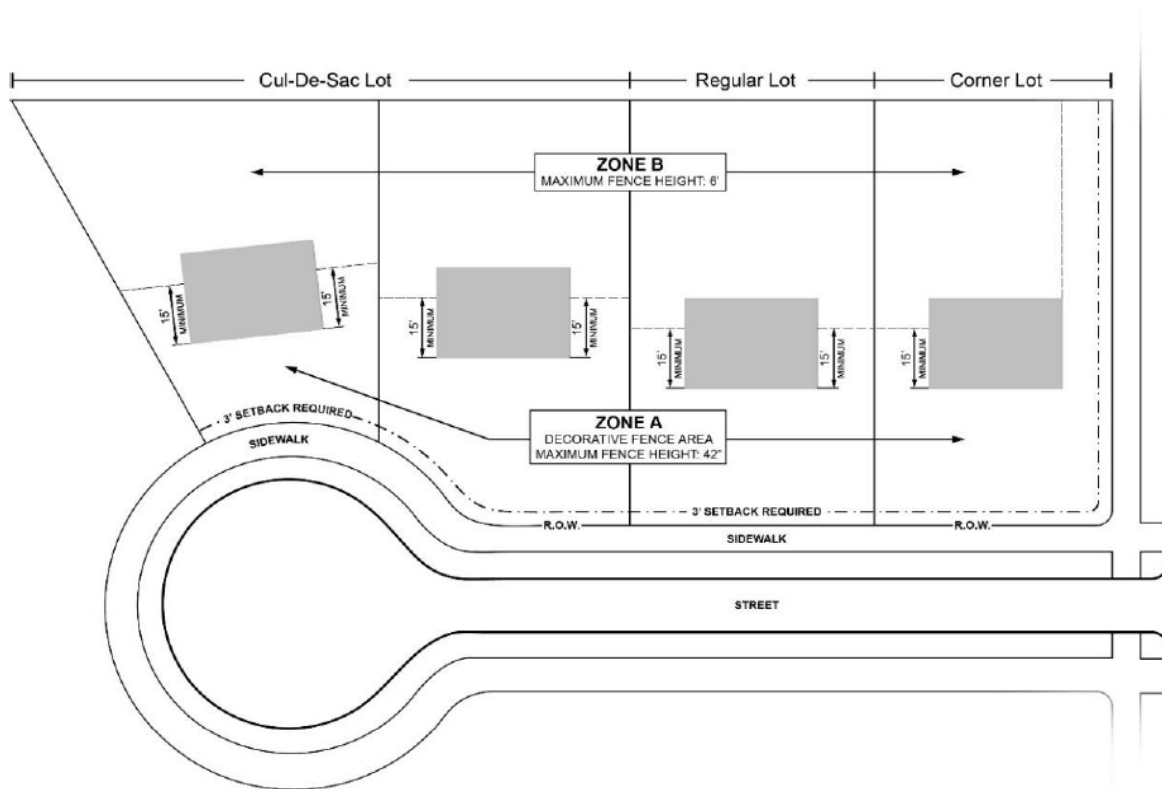
Exhibits: 1- Application
2- Letter of Justification
3- Location Map
4- Existing Fence
5- Site Plan

Background

The Applicant, Jonathan Frederick, has requested a variance to construct a 6-foot fence on his corner lot within Zone A. City Code Section 1224.01(e)(9)(D)(iii) provides that “Zone A shall be the area lying between the street right-of-way line and a line parallel to and a minimum of 15 feet behind the existing front line of the building foundation. See Figure 1224-C.” Fencing in Zone A shall not exceed 42 inches in height in any residential zoning district¹ and shall not be constructed within 3 feet of an existing right-of-way line.

¹ Fence are permitted to be 48 inches in height in any agricultural zoning district.

Figure 1224-C: Location of Zones A and B based on lot types.



The Applicant has proposed removing the existing snow fence on his property and replacing it with a vinyl privacy fence. The new fence would be placed along the back property line would extend 35 feet into Zone A. If a nonconforming fence is being replaced with a new fence, then it must comply with the standards of this section per City Code Section 1224.01(e)(9)(H).²

In the Letter of Justification, the Applicant explained that the primary reasons for requesting the variance are to enhance safety and privacy. The purpose of extending the fence is to increase their area of privacy and to have a barrier to keep random individuals out of their personal space. Without the variance, the 6-foot fence would have to end at the corner of the house. Alternatively, it could extend into Zone A, but with a maximum height of 3.5 feet.

² City Code Section 1224.01(e)(9)(H) provides that if more than 50% of a nonconforming fence is removed or replaced, the entire portion of a fence that is nonconforming shall either be completely removed or replaced with fencing that complies with the standards of this section.

Variance Criteria

In determining whether a property owner has suffered practical difficulties, the Board of Zoning Appeals and City Council shall weigh the following factors: provided however, an applicant need not satisfy all of the factors and no single factor shall be determinative, to determine the following:

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without a variance;

Applicant Response: We believe that this variance would better align with our intended use of the property to raise our family in a controlled and safe environment while improving both its functionality and marketability. Providing more adequate means of privacy are much needed due to the densely populated area and heavy traffic. It would also provide necessary security, support aesthetics of the property and we believe it would increase property value. We do not foresee being able to use the property beneficially within our comfort level without the variance.

Staff Comment: Staff feels the property in question will yield a reasonable return and the property has a beneficial use without granting of the variance.

- (2) Whether the variance is substantial;

Applicant Response: We believe that this variance is substantial and reasonable due to all that is noted in section 8 of this letter. We believe that the added security alone would be substantial enough to grant the variance.

Staff Comment: Staff feels 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;

Applicant Response: We do not believe that the character of the neighborhood or any adjoining properties would suffer any detriment as a result of this variance. In fact, we believe that this variance would add character and visual appeal to all surrounding properties due to blocking the view of our backyard contents.

Staff Comment: Staff does not feel that granting the variance with the proposed condition would substantially alter the character of the neighborhood.

- (4) Whether the variance would adversely affect the delivery of government services (i.e., water, sewer, garbage);

Applicant Response: This variance would not adversely affect any government services or deliveries. All deliveries are made to the front of the house and all meters are located on the other side of the property, which would not be contained within the fence.

Staff Comment: Staff does not feel the variance would adversely affect the delivery of government services.

- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;

Applicant Response: We were not aware of the zoning restrictions upon purchasing the house.

Staff Comment: Staff believes the property owner did not have knowledge of the zoning restriction before purchasing the property.

- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

Applicant Response: We do not feel that our predicament can be obviated via a different solution due to safety and privacy concerns noted in section 8.

Staff Comment: Staff feels the owner's predicament can be obviated without a variance, but this would require either reducing the fence height at the proposed location or moving the six-foot fence further back on the property.

- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance;

Applicant Response: We believe that granting the variance would be of substantial justice to our families safety, privacy and overall wellbeing and happiness.

Staff Comment: Staff does not feel the intent behind the zoning code would be strictly observed by granting the variance.

- (8) Any other relevant factor to assist the Board of Zoning Appeals in weighing and balancing the public and private benefits and harms of the requested relief.

Applicant Response: Please note that there is an RTA bus stop at the corner of this property that has impacted us negatively over the years with excess trash and debris such as broken glass, liquor bottles, cigarette butts, plastic wrappers, etc. There have been impaired individuals claiming to be waiting for the bus, at all hours of the night, wonder upon our property in which we have had to contact law enforcement to escort from our property. Once while on vacation, our neighbors contacted us concerning a man being arrested in our own backyard. When we contacted the police for more information, we were told that the man had a mental illness. We believe that this is a result of not having a barrier to keep random people out of our personal space. Directly adjacent to our property are several apartment buildings. We have had residence of these apartment buildings watch us with a video camera and have had to contact local law enforcement and pursue those privacy breeches in court. We would also like to mention that we have a child and also pets in which we question their safety while they are outside in their own backyard due to heavy traffic, excessive speeding and what seems to be increasing foot traffic; some of which has initiated conversation with our child while walking by. There have been countless times that cars have driven through our yard, cutting the corner and coming close to hitting our family members. We have lived at this property for 8 years and throughout our residency have been faced with numerous safety concerns and privacy invasions resulting in feelings of anxiety, worry and helplessness.

Staff Comment: Staff notes that the current layout of the house is legal nonconforming as the rear yard setback is 16 feet and the code requires it to be 35 feet.

Recommendation

Staff recommends the Board of Zoning Appeals to recommend **approval** of the requested variance from City Code Section 1224.01(e)(9)(D)(iii) for the purpose of allowing a six-foot fence to be placed within Zone A at 320-326 Dellsing Drive with the following condition:

1. The fence shall not extend more than 20 feet into Zone A.

The recommendation of the Board of Zoning Appeals will be forwarded to City Council for their review.



Development & Engineering Services Board of Zoning Appeals Application

Complete this page and follow the directions on page 2

Applicant Name: JONATHAN FREDRICK

Mailing Address: 326 PELLSING DRIVE

Phone Number:

E-mail Address:

Owner Name**: _____

Mailing Address: _____

Phone Number: _____

OFFICE USE ONLY
Filing Date 2/14/25
Hearing Date 3/12/25
Case No. BZA 25-0003

**** If Applicant is other than owner, written consent of owner is required for variance.**

Location of Property

Street Address: 326 PELLSING DRIVE.

(north, south, east, west) side of South side _____ feet

(north, south, east, west) from the intersection of POOL AVE.

Attach copy of legal description of the property as recorded in the County Recorder's office.

Case Description.

Present Zoning District: R5F 3 Total Acres: _____

Description of the existing use of property: Residential

Description of proposed use of property: Residential

Specific Zoning Code provision that applicant is seeking variance from: 12-24.01E9

Variance Requested: YES

Request for zoning certificate was refused on 2-19-25

Applicant must also attach a letter justifying the variance, see page 2, Section C for directions.

Applicant/Owner

Date

Zoning Administrator

Date

FILING FEES (office use only):

Residential (\$159.00)

Commercial (\$318.00)

Receipt No.: _____ TOTAL: \$159.00

Variance application requirements and submittal instructions

Turn in the following items for a complete application.

A. SITE PLAN-- Must submit 5 copies

The applicant/owner shall provide a site plan drawn to scale which shows the following, if applicable:

1. Property/Boundary lines
2. Exterior lot dimensions
3. Size and location of all existing structures
4. Location and size of proposed new construction
5. Setbacks of all structures from property boundary lines
6. Distance between structures
7. Show location of any and all streets, alleys, right-of-ways and easements that are contiguous to the property requesting the Variance
8. Open space, landscaping, signage
9. Photos or graphics that illustrate proposed project

B. LIST OF PROPERTY OWNERS

Provide a list of property owners (as recorded in the Montgomery County Auditor's office) adjacent to, contiguous to and directly across the street from the property being considered.

<i>Example:</i>			
<u>Property Address</u>	<u>Parcel I.D. #</u>	<u>Owner Name</u>	<u>Owner Mailing</u>
123 Clubhouse Way	B02 00000 0000	Carol Smith	124 Green Way Vandalia, OH 45377
345 Brown School Rd.	B02 11111 1111	Fred Jones	345 Brown School Rd. Vandalia, OH 45377

C. LETTER OF JUSTIFICATION

The applicant shall submit a letter of justification that states how the variance request meets the eight (8) criteria for a variance. See the next section for the standards of a variance and eight criteria that are considered when a variance is given.

D. VARIANCE REVIEW CRITERIA

In determining whether a property owner has suffered practical difficulties, the Board of Zoning Appeals and City Council shall weigh the following factors; provided however, an applicant need not satisfy all of the factors and no single factor shall be determinative:

(1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without a 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 services (i.e., water, sewer, garbage);

(5) Whether the property owner purchased the property with knowledge of the zoning restriction;

(6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

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

(8) Any other relevant factor to assist the Board of Zoning Appeals in weighing and balancing the public and private benefits and harms of the requested relief.

E. VARIANCE REVIEW PROCEDURE

The review procedure for a variance is as follows:

Step 1 – Application

The applicant shall submit an application in accordance with City Code Section 1214.02. Within 10 days of receipt of an application for a variance, the Administrative Officer shall make a determination of completeness in accordance with the provisions of this chapter.

Step 2 – Staff Review and Transmittal to the Board of Zoning Appeals

Upon determination that an application is complete, the Administrative Officer shall transmit the application to the Board of Zoning Appeals for consideration pursuant to the standards set forth in City Code Section 1214.02.

Step 3 – Recommendation by Board of Zoning Appeals

Within thirty days of receipt of a completed application, the Board of Zoning Appeals shall hold a public hearing to consider an application for a variance at its next regular meeting or in a special meeting. The recommendation of the Board shall be based upon the review standard set forth above and transmitted to the Clerk of Council for final decision. Notice of this public hearing must be made in accordance with Section 1214.02 (c) to (g).

Step 4 – Final Decision by City Council

Within thirty days of the date on which the Clerk of Council receives the recommendation of the Board of Zoning Appeals, unless a longer time is requested by the applicant, City Council shall hold a public hearing to determine whether to grant the proposed variance based upon the application and the review standards listed above.

Letter of Justification For Fence Variance

Property: 326 Dellsing Drive

1) We believe that this variance would better align with our intended use of the property to raise our family in a controlled and safe environment while improving both its functionality and marketability. Providing more adequate means of privacy are much needed due to the densely populated area and heavy traffic. It would also provide necessary security, support aesthetics of the property and we believe it would increase property value. **We do not foresee being able to use the property beneficially within our comfort level without the variance.**

2) We believe that this variance is substantial and reasonable due to all that is noted in section 8 of this letter. We believe that the added security alone would be substantial enough to grant the variance.

3) We do not believe that the character of the neighborhood or any adjoining properties would suffer any detriment as a result of this variance. In fact, we believe that this variance would add character and visual appeal to all surrounding properties due to blocking the view of our backyard contents.

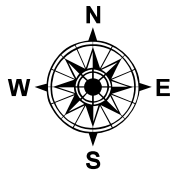
4) This variance would not adversely affect any government services or deliveries. All deliveries are made to the front of the house and all meters are located on the other side of the property, which would not be contained within the fence.

5) We were not aware of the zoning restrictions upon purchasing the house.

6) We do not feel that our predicament can be obviated via a different solution due to safety and privacy concerns noted in section 8.

7) We believe that granting the variance would be of substantial justice to our families safety, privacy and overall well being and happiness.

8) Please note that there is an RTA bus stop at the corner of this property that has impacted us negatively over the years with excess trash and debris such as broken glass, liquor bottles, cigarette butts, plastic wrappers, etc. There have been impaired individuals claiming to be waiting for the bus, at all hours of the night, wonder upon our property in which we have had to contact law enforcement to escort from our property. Once while on vacation, our neighbors contacted us concerning a man being arrested in our own backyard. When we contacted the police for more information, we were told that the man had a mental illness. We believe that this is a result of not having a barrier to keep random people out of our personal space. Directly adjacent to our property are several apartment buildings. We have had residence of these apartment buildings watch us with a video camera and have had to contact local law enforcement and pursue those privacy breeches in court. We would also like to mention that we have a child and also pets in which we question their safety while they are outside in their own backyard due to heavy traffic, excessive speeding and what seems to be increasing foot traffic; some of which has initiated conversation with our child while walking by. There have been countless times that cars have driven through our yard, cutting the corner and coming close to hitting our family members. We have lived at this property for 8 years and throughout our residency have been faced with numerous safety concerns and privacy invasions resulting in feelings of anxiety, worry and helplessness.



1 inch = 23 feet



City of Vandalia Board of Zoning Appeals

320-326 Dellsing Drive

BZA 25-0003 Six Foot Fence in Zone A





FENCE PERMIT

City of Vandalia, Ohio

O.U.P.S.

Ohio Utilities Protection Services

Call at least 48 hours before you dig!

1-800-362-2764

PER CODE SECTION 1224.01

- * If 50% or more of a non-conforming fence is removed or replaced, the entire portion of a fence that is nonconforming shall either be completely removed or replaced with fencing that complies with Code.
- * Where a new fence is erected adjacent to an existing fence, on the same lot, the existing fence shall be removed if the new fence is intended to serve the same purpose as the existing fence.
- * Welded wire and chain link style fencing shall all be required to be vinyl coated.
- * All supporting posts must be located on the side facing the interior of the property upon which the fence or wall is located.

Legend

----- Easements

□ Vandalia Parcels



While the city allows for the construction of fencing within a utility easement, it is the property owner's responsibility to repair or replace any fencing removed or damaged during utilities installation and maintenance operations conducted within the easement.

Mar 4, 2025 at 8:31:42 AM
OH, Vandalia, Dellsing Dr



Minutes of the City of Vandalia Board of Zoning Appeals
February 26, 2025

Agenda Items

1. Call to Order
2. Attendance
3. Old Business
4. New Business
 - a. BZA 25-0001 Chickens – 955 Forest View Court
 - b. BZA 25-0002 Maximum Building Sign Area – 780 Northwoods Boulevard
5. Approval of Minutes
 - a. Board of Zoning Appeal Minutes: December 11, 2024
6. Communications
 - a. New Member Welcome
7. Adjournment

Members Present:	Mr. Mike Flannery, Mr. Mike Johnston, Mr. Robert Wolfe, Mr. Kevin Larger, and Mr. Steve Stefanidis
Members Absent:	None
Staff Present:	Mr. Ben Graham, Zoning and Planning Coordinator, Mr. Michael Hammes, City Planner
Others Present:	Mrs. Caitlin Korol, Mr. Grant Korol, Ms. Halina Korol, Mr. Conrad Korol, Mr. Alex Barnett

1. Call to Order

Mr. Flannery called the meeting to order at 6:00 p.m. Mr. Flannery described the BZA as a recommending body that evaluated the BZA application and stated that the City Council made the final decision on all appeal and variance requests but will not hold a public hearing such as BZA. She noted that City Council would hear the request at the meeting on March 17, 2025, at 7:00 p.m.

2. Attendance

All members were in attendance.

3. Old Business

Mr. Graham confirmed that there was no old business.

4. New Business

a. BZA 25-0001 Chickens – 995 Forest View Court

Mr. Graham gave the report from Staff stating that the Applicant, Caitlin Korol has requested a variance to have 5 chickens on less than 2.5 acres of land. The Applicant submitted a variance to allow 5 chickens on 0.34 acres. City Code Section 1224.01(e)(20)(A) provides that the “raising of chickens shall be permitted with the standards as set forth in this Section, in the A, RSF-1, RSF-2, RSF-3, RSF-4 and PUD Zoning Districts, unless otherwise restricted by private development standards, as an accessory use to a principal single-family use when the lot size is 2 acres or more.”

Mr. Graham stated that City Code Section 1224.01(e)(20)(B)(i) provides that “No chickens shall be permitted at a ratio greater than 2 chickens per acre with a maximum of 8 chickens per property, regardless of acreage.” The Applicant is proposing having 5 chickens on 0.34 acres.

Mr. Graham stated that City Code Section 1224.01(e)(20)(B) provides that “chickens shall be kept in a coop or enclosed pen which shall be no closer than 25 feet from any lot line.” If the variance is approved, the applicant has agreed to move and provided a site plan showing the chicken coop 30 feet from the property line.

Mr. Graham reported that the Applicant stated in her Letter of Justification that the chickens are their beloved pets and cherished members of their family, and that they do well under their care. These chickens also provide meaningful opportunities for education and personal growth, not only for her family but also for neighborhood children who frequently gather in the cul-de-sac. Currently, they have five chickens, which produce minimal waste. To ensure cleanliness and prevent any odor or unsanitary conditions, all waste is carefully bagged and removed from the property on a weekly basis.

Mr. Graham reported that Staff recommends the Board of Zoning Appeals to recommend denial of the requested variance from City Code Section 1224.01(e)(20) for the purpose of allowing 5 chickens on 0.34 acres at 995 Forest View Court.

Mr. Graham mentioned that should the Board of Zoning Appeals recommend approval of the variance, Staff recommends the following conditions:

1. The chicken coop shall be moved at least 25 feet from any lot line,
2. Coops and pens shall be maintained to prevent offensive smells becoming injurious to the health, comfort, or property of individuals or of the public, and
3. The wings of any chicken kept under this variance shall be clipped.

Mr. Graham reported that the neighboring properties at 955, 960, 975 and 980 Forest View Court, and 370 and 396 West Alkaline Springs Road all signed a support petition or called in to support this variance.

Mr. Flannery asked if all the neighboring properties were in support. Mr. Graham confirmed that to be correct.

Mr. Flannery invited the Applicant to address the Board.

Mr. Grant Korol stated he was the property owner at 995 Forest View Court. He introduced his family Caitlin, Halina, and Conrad Korol.

Mr. G. Korol stated that he heard several years ago that Vandalia changed its chicken ordinance for residential zoning and hoped to raise a small number of chickens as pets and provide their kids with valuable life experiences. The house is in a cul-de-sac, has a large grove of trees and is relatively secluded from each of the neighbors. They constructed a small 20 square foot coop to house the 5 chickens in a location intended to be private and unbothersome to their neighbors.

Mr. G. Korol stated they clean the coop on a weekly basis and dispose of the waste to avoid access buildup and smells. The chickens are not free roaming and are contained in a pen.

Mr. G. Korol stated that his kids and many of the neighboring children enjoy interacting with the chickens. All the direct neighbors in the cul-de-sac agree the chickens are not overly impactful and not a detriment to the community. He added that a list of their signatures was provided to the Board in support of the variance.

Mr. G. Korol stated that he hopes City Council grants a variance to the code. He added that Tipp City does not have minimum land size requirements for the raising of chickens in residential zonings and the only limitation is a setback of 100 feet from any neighboring house.

Mr. G. Korol stated that if a variance was allowed, they would move the location of the coop to meet the minimum setback requirements. He noted that the current zoning restriction in Vandalia locks out nearly all residential properties from the raising of chickens.

Mr. Flannery asked if he had any issues with the 3 conditions proposed by Staff. Mr. G. Korol replied that he has no problems with those conditions.

Mr. Stefanidis asked how long the chickens have been there. Mr. G. Korol replied that the chickens have been on the property for 1 year.

Mr. Stefanidis if all his neighbors have been there the entire time since having these chickens. Mr. G. Korol replied yes, no one new has moved into the cul-de-sac.

Mr. Johnston asked about the bird flu. Mr. G. Korol replied that based on his research, bird flu spreads when free roaming birds contact other free roaming birds. Mr. G. Korol added that their pen is completely enclosed.

Mrs. Caitlin Korol added that waterfowl birds such as geese and ducks are the birds that you need to be worried about encountering your animals. She added that the concern is less residential chickens and more commercial chickens. The bird farms have wild birds coming into the facilities to eat the food and defecate there. They live in wooded areas and the areas of concern would be near a pond or an open field. Their birds are confined to their coop and no wild birds can access that coop.

Mrs. C. Korol stated that anyone who encounters their chickens washes their hands and takes the proper precautions to be safe.

Mr. Larger asked Mr. Graham if the neighbors would have a basis to make a complaint about the chickens if the variance is approved. Mr. Graham stated that his office would follow up on any complaint and ensure the coop is maintained and following the proper codes.

Mr. Larger asked if they had six chickens down the road. Mr. Graham stated that if the 5 chickens were approved with this variance, those chickens would still be good, and they would have a zoning violation for the 6th chicken and would need to seek a variance to keep that chicken.

Mr. Johnston stated that we would need to trust the homeowners to not exceed 5 chickens. Mr. Graham added that we do have inspectors go around daily to check if there are any property maintenance and zoning violations throughout the city.

Mr. Johnston raised concerns about more variance with chickens if this one is approved. These are residential lots and it would be best to keep them that way.

Mr. Wolfe concurred with Mr. Johnstons statement and asked if there are any other chickens in town. Mr. Graham replied yes, there is a house on Ronald Street that is illegally raising 25 chickens and 1 rooster that is under violation. Mr. Graham added that he does not believe there are other residential properties with chickens on them.

Mr. Wolfe asked if we allow a variance here, how many more applications we will have. Mr. Graham replied this is the first chicken variance and if this and other variances get approved, Staff would probably need to look at modifying the zoning code.

Mr. Hammes reported that the chicken text amendment to the code was done in 2019, and this is the first variance under these rules coming to the Board.

Mr. Hammes recounted that before he came to Vandalia, there were a number of variances for solar panels and City Council asked him to look at the code to see if there are any adjustments that can be made to fit solar panels better now, as compared to when the code was initially written.

Mr. Hammes stated that if we receive several chicken variances in a short period of time, City Council may be inclined to have Staff look at amending the code. The problem might not be the people who want chickens, but the code.

Mr. Hammes added that the board should evaluate this particular variance on the facts presented here today, but looking at the bigger picture is valid.

Mr. Hammes stated that the number of chickens they can have on their lot is 0 and that granting the variance would increase that number to 5. The other requirements of the code would still apply.

Mr. Flannery stated when the code was updated, there were provisions related to farming that got dropped off.

Mr. Flannery stated that the Board needs to look at this case as an individual situation with the chickens.

Mrs. C. Korol stated that she is living harmoniously with her neighbors and if her neighbors had any problems or concerns with her chickens, she would not hesitate to remedy the situation. This is their home too and she does not want to impede their life.

Mr. G. Korol stated the Board brought up valid points. He added that his family is vegetarian, and these are not meat chickens. They do not want 40 chickens, their 5 is enough.

Mr. G. Korol stated they are meeting or will meet all the requirements for the raising of chickens. He then thanked the board for their time.

Hearing no further questions or comments, Mr. Flannery closed the public hearing.

Mr. Flannery then proceeded to the variance review criteria.

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without a variance;

BZA Comment: Mr. Johnston, Mr. Stefanidis, Mr. Larger, and Mr. Flannery agreed the property in question will yield a reasonable return and the property has a beneficial use without granting the variance. Mr. Wolfe abstained.

- (2) Whether the variance is substantial;

BZA Comment: The Board agreed the variance is somewhat substantial given the allowed ratio of chickens to acreage and the existing tree buffer.

- (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;

BZA Comment: Mr. Stefanidis, Mr. Larger, and Mr. Flannery agreed that granting the variance would not substantially alter the character of the neighborhood. Mr. Wolfe disagreed with Staffs comment and believed that granting the variance would substantially alter the character of the neighborhood. Mr. Johnston abstained.

- (4) Whether the variance would adversely affect the delivery of government services (i.e., water, sewer, garbage);

BZA Comment: The Board agreed that the variance would not adversely affect the delivery of government services.

- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;

BZA Comment: The Board agreed the property owner did not have knowledge of the zoning restriction before purchasing the property.

- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

BZA Comment: The Board agreed the owner's predicament cannot be obviated without a variance because of the existing lot size. Staff noted that if the variance is not approved, the Applicant would not be required to exterminate her chickens but rather remove them from the property.

- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance;

BZA Comment: The Board agreed the intent behind the zoning code would not be observed by granting the variance.

- (8) Any other relevant factor to assist the Board of Zoning Appeals in weighing and balancing the public and private benefits and harms of the requested relief; and

BZA Comment: The Board agreed there were no other relevant factors.

Mr. Flannery reported that staff recommends the Board of Zoning Appeals recommend denial of the requested variance from City Code Section 1224.01(e)(20) for the purpose of allowing 5 chickens on 0.34 acres at 995 Forest View Court.

Mr. Flannery mentioned that should the Board of Zoning Appeals recommend approval of the variance, Staff recommends the following conditions:

1. The chicken coop shall be moved at least 25 feet from any lot line,
2. Coops and pens shall be maintained to prevent offensive smells becoming injurious to the health, comfort, or property of individuals or of the public, and
3. The wings of any chicken kept under this variance shall be clipped.

Mr. Larger stated that he wants to maintain the integrity of the city but also work for every citizen in the city.

Mr. Larger stated that he would take a chicken over a dog barking next door any day of the week.

Mr. Larger commented that we may need to look at amending the zoning code here for chickens. Mr. Flannery added that this is the way to do this as we see cases that need to be revisited.

Mr. Flannery stated the code cannot be written perfectly.

Mr. Stefanidis stated that variance granting is the exception to the normal rule and does not set a precedent.

Mr. Stefanidis stated he does not know what they paid for the coop, how much it costs to haul the waste away, but guarantees that these chickens at \$6 for a dozen eggs are not making these folks a profit.

Mr. Stefanidis believes this case is an exception to the rule based on their relationship with the chickens and their willingness to move the chicken coop.

Mr. Wolfe stated that chickens are not something he would want in his neighborhood. He added that a variance is a way to accomplish something when it is not written in the rules and regulations.

Mr. Wolfe stated that he does not want to disappoint the folks, but he does not want to start seeing chickens in the residential back yards, but in more rural areas. Mr. Flannery replied in this case, he views the chickens in this case more as kids' pets, rather than livestock. MR. Flannery added they are not selling eggs.

Mr. Flannery called for a motion.

Mr. Larger made the motion to recommend approval the requested variance with the following conditions:

1. The chicken coop shall be moved at least 25 feet from any lot line,
2. Coops and pens shall be maintained to prevent offensive smells becoming injurious to the health, comfort, or property of individuals or of the public, and
3. The wings of any chicken kept under this variance shall be clipped.

Mr. Stefanidis seconded the motion. Mr. Larger, Mr. Stefanidis, and Mr. Flannery voted yes. Mr. Johnston and Mr. Wolfe voted no. The motion passed 3-2.

Mr. Graham advised the applicant that it would be in his best interest to attend the City Council Study Session on March 3, 2025, at 6:00 p.m. and the City Council Meeting on March 17, 2025, at 7:00 p.m.

b. BZA 25-0002 Maximum Building Sign Area – 780 Northwoods Boulevard

Mr. Graham gave the report from Staff stating that the Applicant, Atlantic Sign Company, on behalf of Kroger has requested a variance to exceed the maximum building sign area. The Applicant submitted a variance to have 327.58 square feet of signage. Table 1236-1 in City Code Section 1236.11(e) provides that the maximum allowed wall signage is 250 square feet with facades greater than 300 feet.

Mr. Graham stated that Kroger is proposing adding a new 190 square foot "Kroger" sign and a 69.1 square foot "Pickup" sign and keeping their existing 19.63 square foot "Starbucks" sign and 48.85 square foot "Little Clinic" sign for a total of 327.58 square feet. This proposal exceeds the allowed amount of signage by 77.58 square feet.

Mr. Graham reported that the Applicant stated in his Letter of Justification that these signs “aim to improve wayfinding on the property and draw in more customers for the entire development.” There is a “thick line of trees that block the building from the road” and these new signs will fit with Kroger’s national branding strategy. The Applicant and Kroger believe this proposal “will have a positive impact on the business, city, and development.”

Mr. Graham reported that Staff recommends the Board of Zoning Appeals to recommend approval of the requested variance from Table 1236-1 in City Code Section 1236.11(e) for the purpose of allowing 327.58 square feet of signage at 780 Northwoods Boulevard.

Mr. Flannery invited the Applicant to speak.

Mr. Alex Barnett, on behalf of Atlantic Sign Company stated he was representing Kroger at 780 Northwoods Boulevard.

Mr. Barnett thanked Mr. Graham for the presentation.

Mr. Barnett stated this variance is for Kroger to align this store with its national branding. They are adding a shopping cart to the front of the logo to show Kroger’s commitment to full, fresh and friendly.

Mr. Barnett stated this store is right off the interstate and when they see this sign, they will come off the exit to shop and bring more people into Vandalia.

Mr. Barnett stated if the signage is not approved, they would have to remove the signage and not follow Kroger’s branding. “The Little Clinic” and “Starbucks” have no other forms of identification on the building and would not be able to promote their services if removed.

Mr. Larger stated that he is a big supporter of Kroger and asked about them cutting down the tree line being removed. Mr. Barnett replied that the trees are blocking the view of the building, but Kroger does not want to remove the trees.

Mr. Stefanidis asked how Vandalia determines how much signage a business gets. Mr. Graham replied it is based on frontage and the Kroger can go up to 250 square feet.

Mr. Johnston asked if there will be a sign on the side of Kroger. Mr. Barnett replied there will be a wall sign and an overhead bar sign.

Mr. Barnett stated that Kroger is one of the larger footprint buildings and would encourage the Board to look at the visual impact of the sign.

Mr. Flannery stated that he has reviewed similar cases with signs in the shopping plaza before.

Hearing no further questions or comments, Mr. Flannery closed the public hearing.

Mr. Flannery then proceeded to the variance review criteria.

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

BZA Comment: The Board agreed the property in question will yield a reasonable return and that the property has a beneficial use without granting the variance. Staff noted the presence of a tall, freestanding sign facing I-75 and a similar sign facing Northwoods Boulevard, both unobstructed by trees and promoting Kroger.

2. Whether the variance is substantial;

Mr. Larger asked about the Applicants comment about the sign being more than double than what is allowed. Mr. Graham replied that Staff had the Applicant remeasure their sign to eliminate the dead space from their measurement. Mr. Hammes added that the initial measurements included a rectangular area around the sign.

BZA Comment: The Board agreed that 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;

BZA Comment: The Board agreed that granting the variance would not substantially alter the character of the neighborhood.

4. Whether the variance would adversely affect the delivery of government services (i.e., water, sewer, garbage);

BZA Comment: The Board agreed that the variance would not adversely affect the delivery of government services.

5. Whether the property owner purchased the property with knowledge of the zoning restriction;

BZA Comment: Mr. Johnston, Mr. Wolfe, Mr. Larger, and Mr. Flannery agreed the current property owner did not have knowledge of the zoning restriction before purchasing the property. Mr. Stefanidis disagreed with Staffs comment and believed the property owner did have knowledge of the zoning restriction before purchasing the property.

Mr. Stefanidis suggested that the property owner knew the code when they bought this property.

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

BZA Comment: The Board agreed the owner's predicament can be obviated without a variance with smaller signage.

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

BZA Comment: The Board agreed that substantial justice would be done, but does not feel the intent behind the zoning code would be strictly observed by granting the variance.

8. Any other relevant factor to assist the Board of Zoning Appeals in weighing and balancing the public and private benefits and harms of the requested relief; and

BZA Comment: The Board agreed there were no other relevant factors.

Mr. Flannery reported that staff recommends the Board of Zoning Appeals recommend approval of the requested variance from Table 1236-1 in City Code Section 1236.11(e) for the purpose of allowing 327.58 square feet of signage at 780 Northwoods Boulevard.

Mr. Flannery called for a motion.

Mr. Wolfe made the motion to recommend approval of the requested variance. Mr. Johnston seconded the motion. The motion passed 5-0.

Mr. Graham advised the applicant that it would be in his best interest to attend the City Council Study Session on March 3, 2025, at 6:00 p.m. and the City Council Meeting on March 17, 2025, at 7:00 p.m.

5. Approval of Minutes

a. Board of Zoning Appeal Minutes: December 11, 2024

Mr. Johnston made a motion to approve the December 11, 2024, Meeting Minutes. Mr. Wolfe seconded the motion. The motion passed 3-0-2 with Mr. Stefanidis and Mr. Larger abstaining.

6. Communications

a. New Member Welcome

Mr. Graham welcomed Mr. Steve Stefanidis to the Board of Zoning Appeals.

Mr. Stefanidis thanked Mr. Graham and stated that he was on the other side of the podium multiple times for Chase Bank.

Mr. Larger asked how Staff determines if the property owner knew the zoning restriction before purchasing the property. Mr. Graham replied this sign code has changed multiple times since 2014.

Mr. Graham reported there is one hearing item for March 12, 2025, meeting date.

7. Adjournment

Mr. Johnston made a motion for adjournment. Mr. Stefanidis seconded the motion.

The meeting was adjourned at 7:01 p.m.

Mike Flannery
Chair