



**Board of Zoning Appeals**

**April 14, 2022**

**7:00 PM**

*I. Call to Order- Chair*

*II. Variance Request*

- To construct a deck into the rear yard setback of 20 feet – 7102 Quellin Blvd.,  
Maineville, OH 45039

*III. Meeting Minutes*

- March 24, 2022

*IV. Findings of Fact*

*V. Adjournment*

# Application for an Appeal to the Board of Zoning Appeals

## Hamilton Township Board of Zoning Appeals

### Ruth and Larry Wagoner

7:00 PM, April 14, 2022

#### General Information

**Applicant:** Ruth Wagoner  
7102 Quellin Blvd.  
Maineville, OH 45039

**Property Location:** Same

**Existing Zoning:** R-1

**Existing Land Use:** SFD

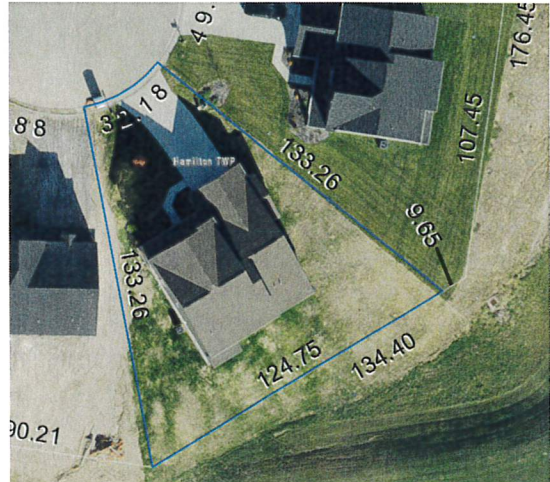
**Parcel Information:** Size .2225 acres  
Land Use SFD

**Area Land Use:** North: R-1 Single Family Residence Zone  
East: R-1 Single Family Residence Zone  
South: R-1 Single Family Residence Zone  
West: R-1 Single Family Residence Zone

**Request:** The applicant has requested a variance from Section 4.9.5.M. in order to construct a deck into the rear yard setback of 20 feet.

The applicant is proposing to build a 350 sq. ft deck onto the rear of the home. The current lot dimensions show that there is a 20-foot minimum setback requirement, however the home itself is only setback 24.7 feet from the rear property line.

**Notice:** A legal ad providing notice of the hearing on this case was published in *The Pulse* on April 3, 2022. Notices were mailed to all property owners within 200 feet of the subject property.



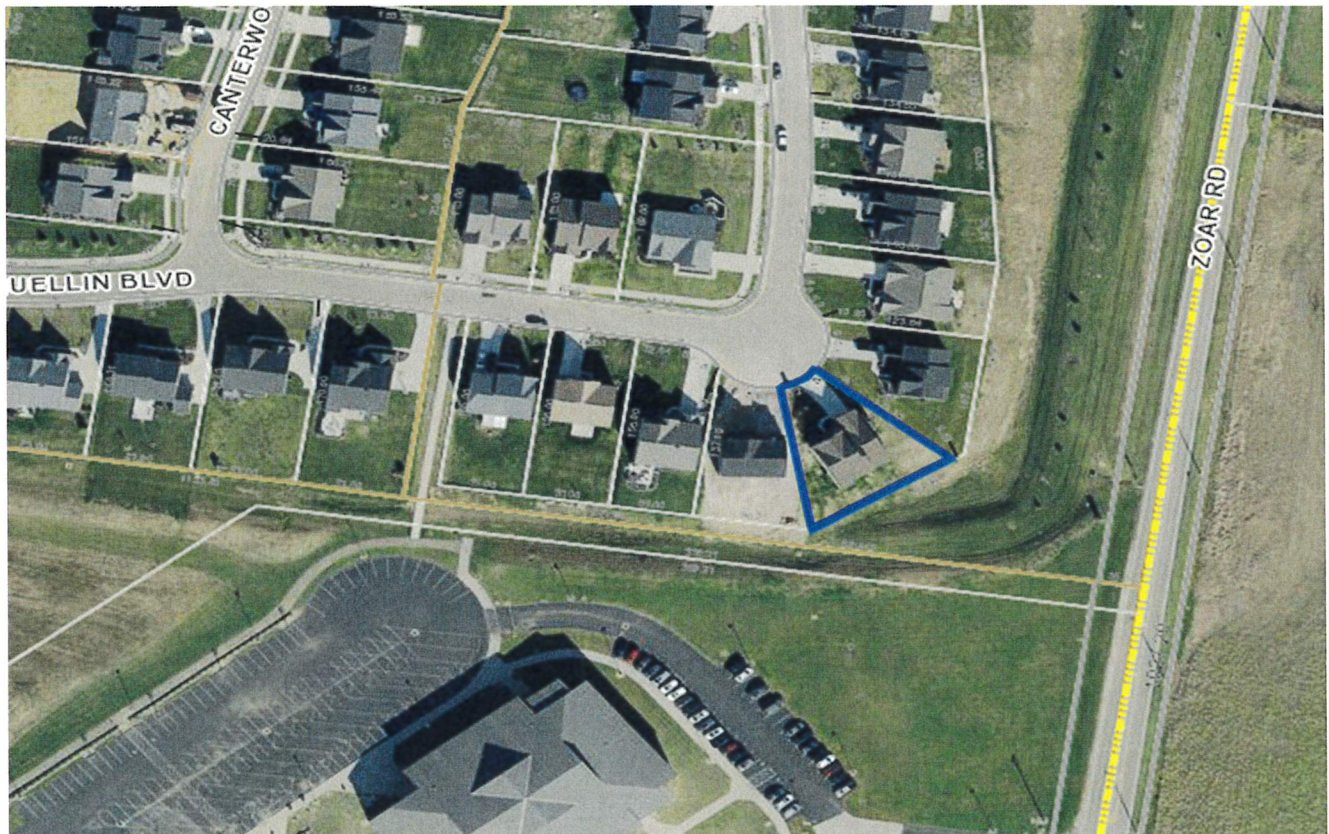
**Applicable Regulations:** Section 4.9.5.M. of The Hamilton Township Zoning Code ("HTZC"), states,

**M. Porch or Deck**

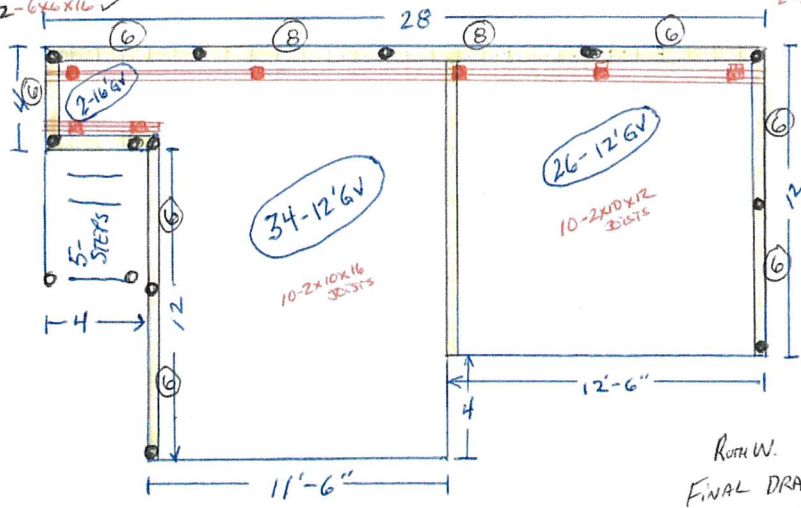
- (1) Porches or decks that are enclosed (with screening or other materials), have a roof, or that are physically attached to the principal structure shall meet the setback requirements for principal buildings in the applicable zoning district. See [Section 6.2 Site Development Standards](#).
- (2) Unenclosed porches and decks may encroach into required setbacks in accordance with [Section 6.2 Site Development Standards](#).
- (3) Porches or decks that are under 18 inches in height do not require a zoning certificate.

**Site Summary:**

The subject property is located in the Providence subdivision which is classified in our Zoning Code as a cluster development. There is an existing general note on the recorded plat that states rear yards abutting open space, may be reduced to a 20-foot rear yard setback which is what the builder did. The Little Miami Intermediate School is located behind this property. There is a large mound that sits between the home and green space located on the school property.

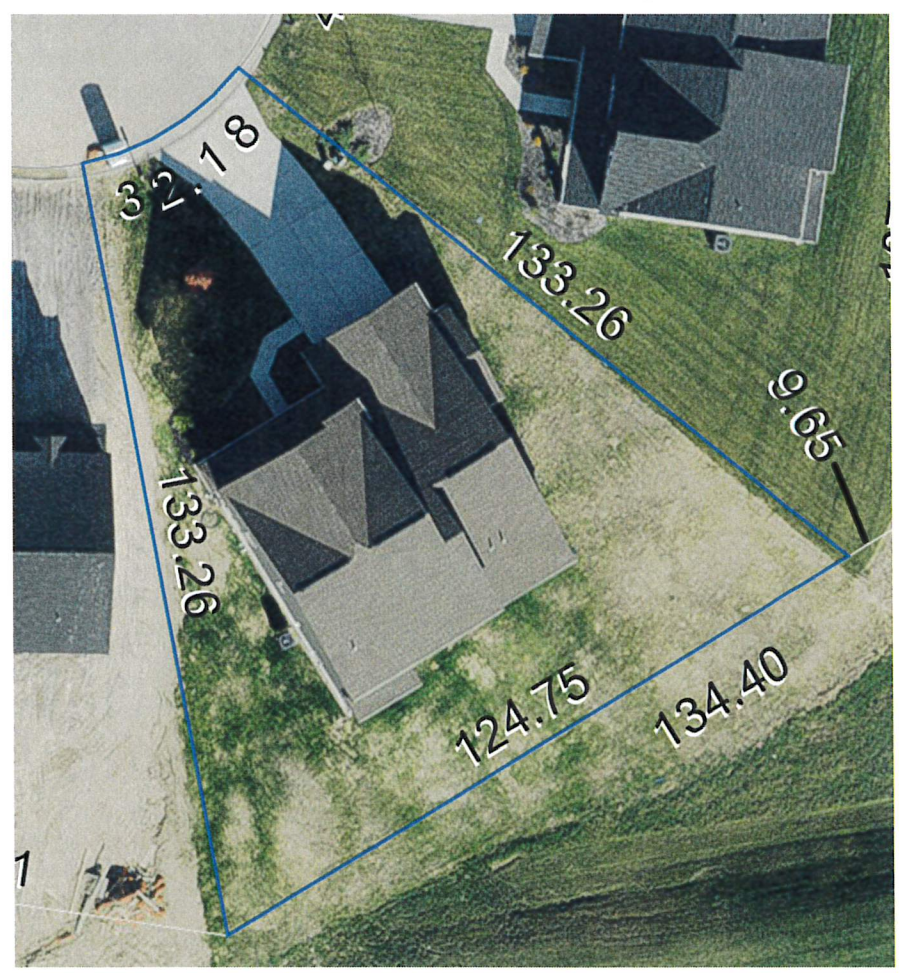


- FRAMING**
- 26 Concrete ✓
  - 7- ABAG-2 ✓
  - 7- WEDGE 1/2 ✓
  - 2- 2x12x16 BEAMS ✓
  - 2- 2x12x12 ✓
  - 14- 1/2 CARLUM/UNSH ✓
  - 1- 2x12x8 - BEAM ✓
  - 2- 6x6x16 ✓
  - 1- 2x10x14 LEDGER ✓
  - 1- 2x10x14 ✓
  - 10- 2x10x12 JOISTS ✓
  - 10- 2x10x16 JOISTS ✓
  - 1- LEDGER LOK 5" ✓
  - 24- JOIST ✓
  - 1- 1/2 SS ✓
  - 4- ACT ✓
  - 3- 2x12x16 STRINGERS ✓
  - 5- 105 STRINGER COMBER ✓
  - 4- 2x10x16 RIM JOIST ✓
  - 7- 2x4x10 BLOCKING ✓
  - 6- 2x6x16 BLOCKING ✓
- DECKING**
- 8- FASCIA 1-PRO PLUG ✓
  - 1- B.T ✓
  - 2- 6x12 FRT 73 ✓
  - 6- 2x4-20'SE ✓
  - 60- 12'GV ✓
  - 2- 16'GV ✓
  - 1- 2x4x10 CAMO ✓
  - 2- 50' CAPS ✓



- OUTDOOR BIK RAILING**
- 11- POSTS ✓
  - 2- TAN POSTS ✓
  - 7- 6' level ✓
  - 2- 8' level ✓
  - 2- 6' STAIR ✓
  - 13- DOWN LINES ✓
  - 2- 1 1/2" ✓
  - 1- TRAILS ✓
  - 1- GRK RSS ✓

Roth W.  
FINAL DRAFT



## Variance Review Criteria:

HTZC Section 3.8.3 provides the following guidelines for the BZA when considering variance requests.

- A. *The BZA shall have the power to authorize upon appeal in specific cases, filed as hereinbefore provided, such variances from the provisions or requirements of this zoning code as will not be contrary to the public interest. Where an applicant seeks a variance, said applicant shall be required to supply evidence that demonstrates that the literal enforcement of this zoning code will result in practical difficulty for an area/dimensional variance.*
- B. *The following factors shall be considered and weighed by the BZA to determine practical difficulty:*
  - (1) *Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;*
  - (2) *Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;*
  - (3) *Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;*
  - (4) *Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;*
  - (5) *Whether the variance would adversely affect the delivery of governmental services such as water, sewer, trash pickup;*
  - (6) *Whether special conditions or circumstances exist as a result of actions of the owner;*
  - (7) *Whether the property owner's predicament can feasibly be obviated through some method other than a variance;*
  - (8) *Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and*
  - (9) *Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.*

*C. No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined by its own facts.*

**Action:**

The BZA will hold a public hearing on April 14, 2022, including the following actions:

- Open the hearing
- Swear in witnesses
- Take testimony regarding the application from staff, the applicant, and anyone else in attendance at the hearing who wishes to speak
- Close the hearing
- Deliberate
- Render a decision on the variance application



APPLICATION FOR A RESIDENTIAL ZONING CERTIFICATE

FOR OFFICE USE ONLY
APPLICATION # 22-0072
DATE 2/22/22

SUBJECT PROPERTY

Street Address 7102 Quellin Blvd
Parcel ID Number 1729470013
Subdivision Providence Lot # Zoning District

APPLICANT

Name Ruth Wagoner
Address 7102 Quellin Blvd
Phone Number 513-404-5736
Email rhwagoner@hotmail.com

PROPERTY OWNER

Ruth Wagoner

TYPE OF CONSTRUCTION

- New Single Family, Pool, Above Ground, Solar Panels, New Two Family, Pool, In Ground, Other, Addition to Home, Detached Garage, Deck, Shed

DESCRIPTION

Describe construction in detail including square footage, height, and intended use -> recreation
Composite/wood deck with aluminum railing
30" height e house, max height 44" as land slopes
railing around entire deck + down stairs - 350 sqft

Ruth Wagoner
Applicant Signature

2/20/22
Date

Hamilton Township Zoning Authority
Date Approved Denied

Application Requirements

- Filing Fee
- Site plan drawn to scale including:
  - o Location of all buildings, existing and proposed
  - o Front, side and rear yard setbacks, as applicable for new construction
  - o Lot area with dimensions noted
  - o Location of fence for all pools
  
- Any other relevant plans

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**FOR OFFICE USE ONLY**

Minimums per Zoning Code

Road Frontage	_____	_____
Width at building line	_____	_____
Front setback	_____	_____
Side setbacks	_____	_____
Rear setbacks	_____	_____

Zoning Fee 35.00  
Receipt Number 362969

Cash \_\_\_\_\_  
Check 7696

Date sent to Building Department \_\_\_\_\_  
Date sent to Applicant \_\_\_\_\_

Inspection Dates  
Setback \_\_\_\_\_  
Final \_\_\_\_\_

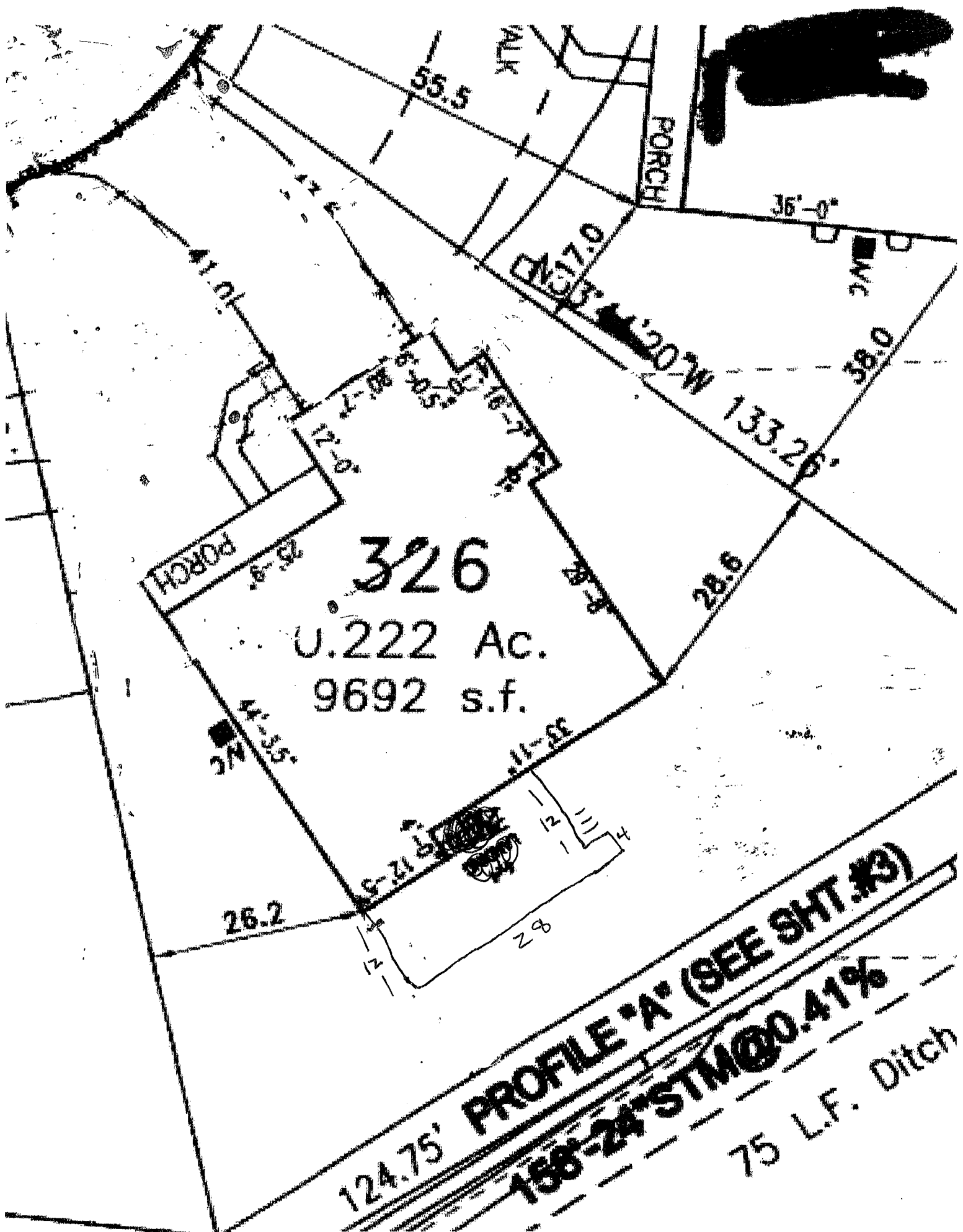
Additional Comments

does not meet the minimum rear yard setback  
of 20 feet.

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326

0.222 Ac.  
9692 s.f.

124.75' PROFILE 'A' (SEE SHT #3)  
158-24' STIM @ 0.41%

75 L.F. Ditch

55.5

WALK

PORCH

36'-0"

M/C

38.0

ENCLOSURE

207' W

133.26'

41.01'

12'-0"

PORCH

25'-8"

28'-8"

28.6

M/C

35'-11"

26.2

12

28

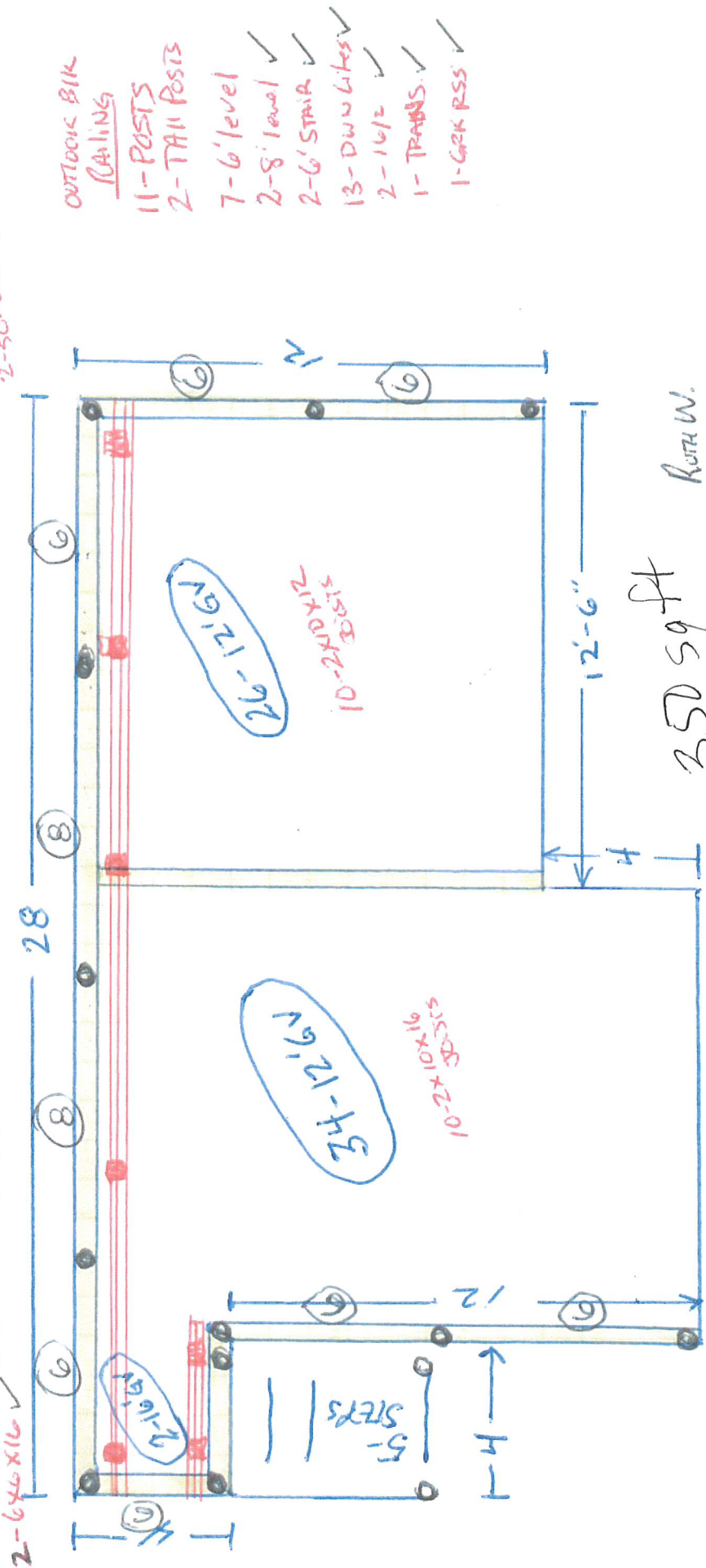
FRAMING

- 26 Concrete ✓
- 7- ABAGG-Z ✓
- 7- WEDGE 4 1/2 ✓
- 2- 2x12x16 BEAMS ✓
- 2- 2x12x12 ✓
- 14- 1/2 CAR/WASH ✓
- 1- 2x12x8 - BEAM ✓
- 2- 6x16 ✓

- 1- 2x10x16 LEDGER ✓
- 1- 2x10x14 ✓
- 10- 2x10x12 - JOISTS ✓
- 10- 2x10x16 - JOISTS ✓
- 1- LEDGER LOK 5" ✓
- 24 - JOIST ✓
- 1- 1 1/2 SS ✓
- 4- ACT ✓

- 3- 2x12x16 STRINGERS ✓
- 5- 4x5 STRINGER COMBOS ✓
- 9- 2x10x16 - RIM JOIST ✓
- ~~7- 2x10x16 BLOTTES~~ ✓
- 10- 2x16x16 Blocking ✓

- WORKING
- 8- FASCIA 1-Pre Pug ✓
  - 1- B.F ✓
  - 2- Comp FST 73 ✓
  - 6- 2x4-20'SE ✓
  - 60- 12'GV ✓
  - 2- 16'GV ✓
  - 1- 2.50 PCAMO ✓
  - 2- 50 PCAMO ✓



- OUTDOOR BIK
- CEILING
- 11- POSTS ✓
  - 2- TRAIL POSTS ✓
  - 7- 6' level ✓
  - 2- 8' level ✓
  - 2- 6' STAIR ✓
  - 13- DOWN LIGHTS ✓
  - 2- 16 1/2 ✓
  - 1- TRANS ✓
  - 1- GRK RSS ✓

350 sq ft  
RUTH W.  
FINAL DRAFT



Application to the  
Board of Zoning Appeals  
7780 South SR 48  
Hamilton Township, OH 45039

**VARIANCE REQUEST**

**APPLICANT**

Name Ruth Wagoner  
Address 7102 Quellan Blvd Maineville 45039  
Phone Number 513-404-5736 Email rhwagoner@hotmail.com

**OWNER**

Name \_\_\_\_\_  
Address Same  
Phone Number \_\_\_\_\_ Email \_\_\_\_\_

**SUBJECT PROPERTY**

Street Address 7102 Quellan Blvd Maineville, Oh 45039  
Parcel ID Number 1729470013  
Zoning District R1 single family

**VARIANCE REQUESTED**

Code Section 4.9.5.M  
Reason for variance (see each item of variance review criteria addressed on separate sheet)

Ruth Wagoner  
Applicant Signature

3/14/22  
Date

**PROPERTY OWNER'S AFFIDAVIT**

STATE OF OHIO

COUNTY OF WARREN

I (we) Ruth Wagoner

hereby certify that we are all of the owners of the real estate which is the subject of the pending zoning application; that we hereby consent to Hamilton Township considering the attached application and approving the request for the subject real estate. We understand that our application will be considered and processed in accordance with the regulations as set forth by the Hamilton Township Zoning Code; that we agree to accept, fulfill and abide by those regulations and all stipulations and conditions attached to the approval. I (we) authorize Hamilton Township to place a Public Meeting notification sign on the property. I (we) authorize Hamilton Township staff to enter and inspect the property. The statements and attached exhibits are in all respects true and correct to the best of my/our knowledge and belief.

Ruth Wagoner  
Signature

Ruth Wagoner  
Printed Name

7102 Quellin Blvd  
Street Address

Maineville, Oh 45039  
City, State, Zip Code

513-404-5736  
Phone

Subscribed and sworn to before me this 15<sup>th</sup> day of March 2022

[Signature]  
Notary Public



**GREG YERKES**  
Notary Public, State of Ohio  
My Commission Expires  
June 17, 2024

**For Township Use Only**

Application file date March 16, 2022

Fee \$300.00 Check Number \_\_\_\_\_ Receipt Number 462830

Date of Legal Advertisement ~~March~~ April 3, 2022

Date of Notice to Adjoining Owners April 3, 2022

Date of Public Hearing April 14, 2022

Action of the BZA    Approved \_\_\_\_\_    Denied \_\_\_\_\_    Tabled \_\_\_\_\_

Additional Comments

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## Variance Review Criteria Addressed:

- 1) a. my rear door is 30" off ground - only option for rear of home outdoor space is a deck (a small landing would not flow/aesthetically pleasing into a patio).  
b. my slope out of rear door to edge of property would not "support" a patio.
- 2) without a deck/patio the rear yard wouldn't be a usable space for family, thereby decreasing value of home.
- 3) only requesting ~~a 5 foot setback~~ <sup>approximately</sup> 1/2 distance to ~~deck~~ <sup>rear</sup> property line as end/edge of deck - other 1/2 of yard to <sup>rear</sup> setback.
- 4) proposed deck would enhance nature of subdivision and HOA has already approved request.
- 5) no affect to govt services.
- 6) addition of deck would not create a special circumstance as many Hamilton Township homes have decks as close to their property line.
- 7) Only size deck that could be placed would be approximately 5 feet from house as rear property line ~~is~~ at rear door is approx 25 feet.
- 8) not aware what intent of zoning requirement was; however due to inability of ANY structures being erected on hill behind property, there will ALWAYS be a minimum of 25 yards of space or setback behind property.
- 9) HOA approved, so obviously not a special circumstance.

# Board of Zoning Appeals

## March 24, 2022

Mr. Blomer called the meeting to order and announced the matters before the Board at 7:00 p.m.

Members present: Adam Paul  
Michael Blomer  
Holly Roush  
Brandon Roark  
Mark Wernery

Mr. Blomer explained the procedures and guidelines the Board would use to reach a decision during the course of the hearing. Mr. Blomer asked any persons wishing to offer testimony or speak during the hearing, to raise their right hand; an oath was administered.

Zoning Administrator, Ms. Lindsey Gehring, presented the staff report for the variance request this evening. The subject property is located at 5279 Venetian Way, Morrow, OH 45152. The property owners and applicants are Ronny and Paula Alldredge. Legal Notice was published in *The Pulse Journal* on Sunday, March 13, 2022, as well as being sent out to all neighboring property owners within 200 feet. The current zoning of this property and surrounding properties is R-4 Urban Residence Zone. Hamilton Township Zoning Code, Section 4.9.5.M provides the criteria for porches and decks. Table 6-1 within our Zoning Code does show that the minimum rear yard setback for the R-4 zoning district is 30 feet. The applicant is proposing to build two decks. The upper deck is 28 feet by 12 feet and will sit flush with the rear and side of the home. Cascading steps lead to the lower deck, which will be 19 feet by 10 feet and is the portion that encroaches into the setback distance.

Mr. Blomer invited the applicant to speak.

Mr. Ronny Alldredge provided a summary of the project. They purchased the home a year ago and the current deck is detaching from the home and sinking. This was a DIY project by the previous owner. They were not aware of the setback requirement when they met with the architect of the deck.

Mr. Blomer commented on the green space beyond the property line. This is green space owned by the HOA and a very large buffer exists.

Mr. Alldredge commented that the berm is roughly 8-9 feet high, and it does not allow for the occupants of the walking path to see into their yard.

Mr. Wernery asked if the 30-foot setback is standard for this neighborhood.

Ms. Gehring explained that this particular area is required to have 30 feet.

The Board mentioned that they have come across similar requests for this neighborhood.

Mr. Miller is the architect for this project. They make sure that OUPS comes in before they dig. They do have approval from the HOA and make sure to clean up their debris each day during construction.

Mr. Blomer made a motion with a second from Mr. Roark to close the public comment portion of the meeting to begin deliberations.

Mr. Blomer commented that the Board has come across these types of variances for this neighborhood before. His experience is that the berm is very tall and lines the full back side of all of the properties on this street.

Mr. Roark made a motion with a second from Ms. Roush to approve the variance request to construct a deck approximately 5 feet into the rear yard setback of 30 feet.

Roll call as follows:	Brandon Roark	Yes
	Holly Roush	Yes
	Michael Blomer	Yes
	Adam Paul	Yes
	Mark Wernery	Yes

Motion carries.

Mr. Blomer made a motion with a second from Mr. Roark to approve the March 10, 2022, Board of Zoning Appeals, meeting minutes.

All in favor. Aye.

With no further business to discuss, Ms. Roush made a motion with a second from Mr. Blomer to adjourn.

All in favor.