

**CITY OF DELAWARE
BOARD OF ZONING APPEALS
AGENDA**

**CITY COUNCIL CHAMBERS
1 S. SANDUSKY ST.
6:30 P.M.**

REGULAR MEETING

July 10, 2019

1. ROLL CALL
2. ELECTION OF OFFICERS
 - A. Chairperson
 - B. Vice-Chairperson
3. APPROVAL of the Motion Summary of the Board of Zoning Appeals meeting held on April 10, 2019, as recorded and transcribed.
4. REGULAR BUSINESS
 - A. 2019-1333 A request by Michael Hornberger for approval of a driveway setback variance to Zoning Code Section 1156.02 at 234 North Union Street on approximately 0.30 acres and zoned R-3 (One Family Residential District).
5. BOARD MEMBER COMMENTS AND DISCUSSION
6. NEXT REGULAR MEETING: August 14, 2019
7. ADJOURNMENT

BOARD OF ZONING APPEALS
MOTION SUMMARY
April 10, 2019

ITEM 1. Roll Call

Chairman Dick called the meeting to order at 6:30 p.m.

Members Present: Beth Fisher, Adam Vaughn, Todd Daughenbaugh, Robert Whitmore, Councilman George Hellinger, Vice-Chairman Paul Junk, and Chairman Matt Dick.

Staff Present: Lance Schultz, Zoning Administrator

ITEM 2. Approval of the Motion Summary of the Board of Zoning Appeals meeting held on March 13, 2019, as recorded and transcribed.

Motion: Councilman Hellinger moved to approve the Motion Summary for the Board of Zoning Appeals held on March 13, 2019 meeting, seconded by Mr. Vaughn. Motion approved by a 7-0.

Chairman Dick swore in the following participants from the public throughout the meeting:

Jim Manos
5973 Macewen Court
Dublin, Ohio

Chris Tebbe
Tebbe Civil Engineering, LLC
5792 Gaelic Court
Dublin, Ohio

Cheryl Hutchinson
256 West William Street
Delaware, Ohio

Tom Tobin
253 West William Street
Delaware, Ohio

ITEM 3. REGULAR BUSINESS

- A. 2019-0411: A request by Manos Properties for approval of a parking setback variance for The Wesleyan Inn at 235 West William Street on approximately 0.72 acres and zoned PO/I (Planned Office/Institutional).

Mr. Schultz provided background information on the property. The owner purchased the property in 2017 from Ohio Wesleyan University and is proposing to renovate and expand the former dormitory into a three-story 43 room Inn. He reviewed the access points to the location and that the owner also owns the property at 239 West William Street (to the west). This house is proposed to be demolished and converted into a park like setting that would be heavily landscaped with a 6 foot high privacy fence located on the western property line. The Commission was made aware that City Council approved a Conditional Use Permit and Preliminary Development Plan in November of 2018. The site plan includes 43 parking spaces. The PO/I zoning district requires a 10 foot parking setback. The owner is proposing a less than 1 foot parking setback. Mr. Schultz reviewed the factors to grant or deny a variance.

APPLICANT:

Jim Manos
5973 Macewen Court
Dublin, Ohio

Chris Tebbe
Tebbe Civil Engineering, LLC
5792 Gaelic Court
Dublin, Ohio

PUBLIC PARTICIPATION:

Cheryl Hutchinson
256 West William Street
Delaware, Ohio

Ms. Hutchinson voiced opposition to granting the variance. She expressed that residents do not want the hotel development in the neighborhood.

Tom Tobin
253 West William Street
Delaware, Ohio

Mr. Tobin voiced opposition to the variance and that the hotel will change the neighborhood. He voiced concern over the change from the November Preliminary Plan in which parking was parallel, but has now changed and that the headlights will be facing residential homes to the west.

Motion: Vice-Chairman Junk moved to approve 2019-0411, along with all staff conditions, finding beyond a reasonable doubt that the decision factor necessary for approval of a variance according to Chapter 1128 of the Planning and Zoning Commission are met, with the staff conditions as noted, seconded by Mr. Vaughn. Motion approved by a 6-1 (Dick) vote.

ITEM 4. BOARD MEMBER COMMENTS AND DISCUSSION

ITEM 5. NEXT REGULAR MEETING: May 8, 2019.

ITEM 6. ADJOURNMENT

Motion: Mr. Daughenbaugh moved to adjourn the Board of Zoning Appeals meeting, seconded by Mr. Whitmore. The Board of Zoning Appeals meeting adjourned at 7:00 p.m.

Matt Dick, Chairman

Elaine McCloskey, Clerk

APPLICANT/OWNER

Michael Hornberger
234 North Union Street
Delaware, Ohio 43015

REQUEST

2019-1333: A request by Michael Hornberger for approval of a driveway setback variance to Section 1156.02 at 234 North Union Street on approximately 0.30 acres and zoned R-3 (One Family Residential District).

PROPERTY LOCATION & DESCRIPTION

The property is located on North Union Street between East Lincoln Avenue and East Fountain Avenue. The property is zoned R-3 (Single-Family Residential District) as are the properties to the north, east, and west. The properties to the south are zoned R-4 (Medium Density Residential District).

BACKGROUND

The applicant proposes an approximate 10 foot wide by 98 foot long driveway that would extend from North Union Street and be located along the north property line. The driveway would connect to a rear yard parking pad and/or carport which would be constructed at a later date. There is an existing curb-cut off of North Union Street that shall be updated per the City Engineer. Currently, the only parking option for this property is on-street parking and the applicant requests an off-street parking option. The applicant has contacted the neighbor to the immediate north and secured a written statement supporting the proposed driveway (see attached). There are multiple properties within this neighborhood that have driveways built within the 2 foot setback and thus the proposed driveway shall not alter the character of the surrounding neighborhood.

STAFF ANALYSIS

- **DRIVEWAY VARIANCE:** Chapter 1156.02(a) of the Zoning Code requires a 2 foot side and rear yard setback.
 - The owner is proposing a driveway on or near the northern property line, which would require a variance to be within the side yard setback.
- **VARIANCE REVIEW:** In considering whether or not a Variance shall be granted, the Board of Zoning Appeals is required to consider certain factors to determine if a practical difficulty exists. As listed below, Section 1128.09(c)(1) of the Planning & Zoning Code sets forth these factors. Following each factor in italics is a brief Staff analysis.
 1. Whether the granting of the Variance would be in accord with the general purpose and intent of the regulations imposed by this Ordinance and the district in which it is located, and shall not be injurious to the area or otherwise detrimental to the public welfare.

The purpose and intent of the Accessory Use Ordinance is outlined in Section 1156.01 states:

 - *Accessory Use regulations are established in order to achieve the orderly development of the City and its neighborhoods.*

Approval of the Variance is in accordance with the purpose and intent of the Ordinance and would not be considered significant and would not likely be detrimental to the public welfare. The neighborhood of the subject property contains several other driveways that are located in close proximity or immediately adjacent to the property line. The existing curb-cut on the subject property indicates that at one point in time a driveway similar to the one proposed likely was located within the 2 foot setback.
 2. 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 non-conforming and inharmonious uses, structures or conditions.

The subject property has a utility box located in the southwestern corner of the property which blocks a potential driveway along the southern property line. In addition, a new curb-cut would be required if a driveway was constructed along the south property line.

3. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the Variance. Mere loss in value or financial disadvantage to the property owner does not constitute conclusive proof of practical difficulty; there shall be deprivation of beneficial use of land.

The house was constructed in 1901 per the Delaware County Auditor and will continue to be used as such with or without approval of this Variance. There was likely a previous driveway within the proposed location as indicated by the existing curb-cut, however, any such driveway has fallen into disrepair without record.

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.

Although the request is not compliant with the side yard setback requirements in the accessory use regulations, the character of the neighborhood would not likely be "substantially altered" if the driveway of the existing house is located along the north property line. It appears that the proposed driveway location would be similar to a majority of the existing driveways within this neighborhood. The adjoining property to the north could "suffer substantial detriment as a result of the Variance" if the proposed driveway is not constructed in accordance to engineering standards. Staff wants to ensure any potential stormwater drainage issues, to the north neighbor especially, are addressed in the construction of the driveway. However, the applicant has secured a written statement supporting the proposed driveway from the property owner to the north.

5. Whether the Variance would adversely affect the delivery of governmental services such as water, sewer, or trash pickup.

The delivery of governmental services, particularly emergency services, would not be impacted with approval of this Variance.

6. Whether the property owner purchased the property with knowledge of the zoning restrictions. Purchase without knowledge of restrictions in itself is not sufficient proof of practical difficulty.

It would be very difficult for staff to determine if the owner of the house purchased the property with knowledge of the zoning restrictions, especially due to the existing curb-cut.

7. Whether special conditions or circumstances exist as a result of actions of the owner.

It is not likely any special conditions or circumstances occurred because of the actions of the owner.

8. Whether the property owner's predicament feasibly can be obviated through some method other than a Variance.

The owner could construct a driveway along the southern portion of their property and achieve compliance with the zoning code. However, this location would necessitate a very costly relocation of a utility box (private utility) as well as a new curb-cut per the City Engineer. Not only are both of these requirements costly but they are not necessarily guaranteed to be approved by their respective regulators.

9. Whether there is evidence of Variances granted under similar circumstances.

Staff cannot recall approving a driveway setback variance in the City for several years.

10. Whether the granting of the Variance is necessary for the reasonable use of the land or building, and the Variance as granted is the minimum Variance that will accomplish that purpose.

The property is currently zoned for a single-family residence and will continue to be used as such with or without approval of this Variance. As a result, a Variance is not necessary for the reasonable use of the land.

11. Whether the proposed Variance would impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values of the adjacent area.

The variance would likely improve street congestion as the applicant would have the option to park their vehicles on a driveway and parking pad rather the public road. In addition, the curb-cut is existing and thus is likely to have been approved in the past. The construction of a new driveway shall require that the existing curb-cut be updated to meet current engineering standards.

12. Whether the granting of the Variance requested would confer on the applicant any special privilege that is denied by this regulation to other lands, structures or buildings in the same district.

If the Board finds that the standards for approval of a Variance are met then no special privilege is granted.

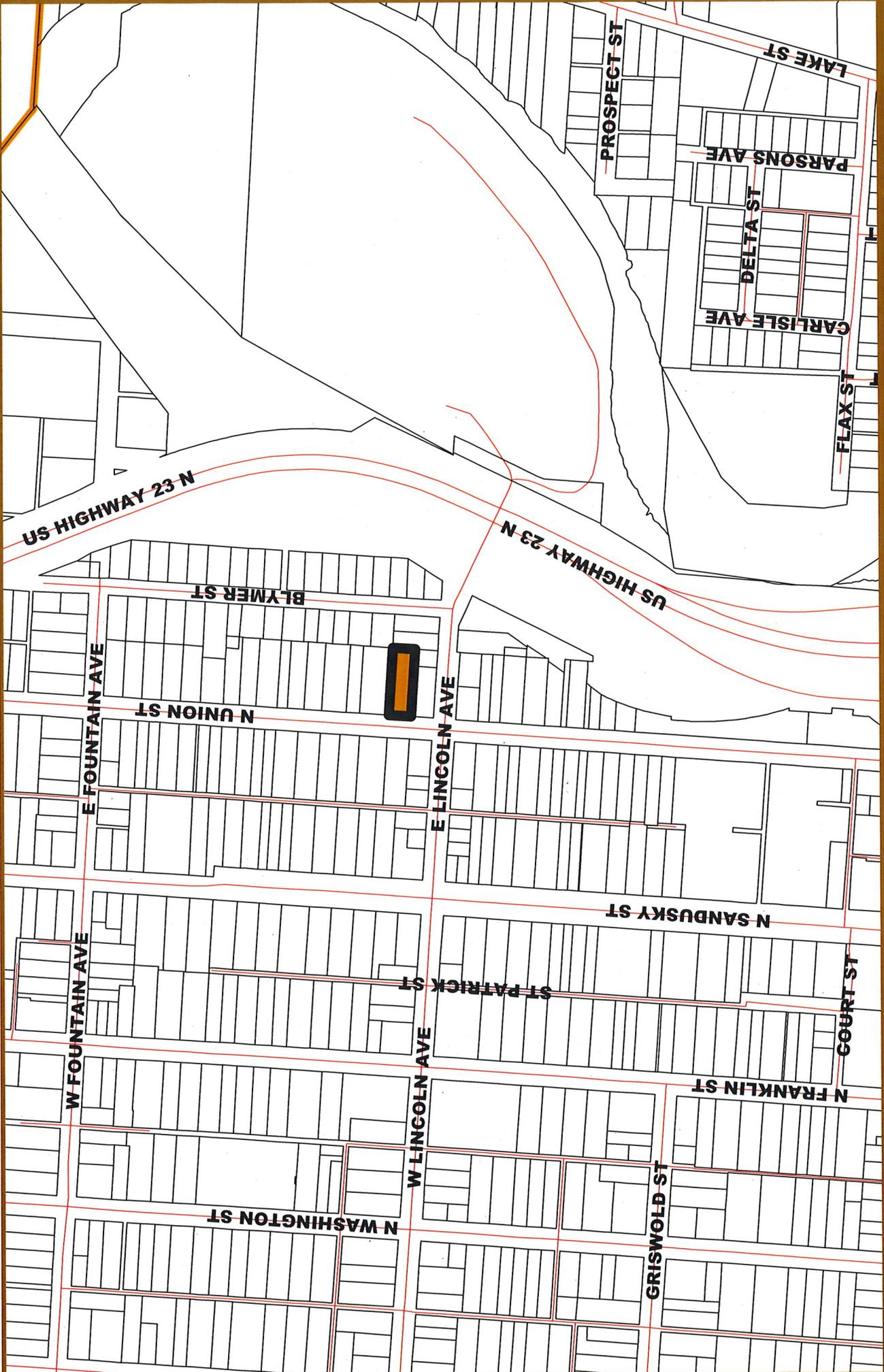
CONCLUSION

Staff would support the variance request, if the adjacent neighbors are not significantly opposed, for the following reasons: 1.) The subject property has an existing curb-cut which indicates that there was once a driveway in the proposed location; 2.) The proposed setback variance would not alter the character of the neighborhood as there are several other driveways within the 2 foot setback in this neighborhood; 3.) The homeowner of the property to the north would be the most likely to be impacted by the requested variance and the applicant has a submitted a signed letter from said neighbor supporting the requested variance.

STAFF RECOMMENDATION – VARIANCE (2019-1333)

Staff recommends approval of a request by Michael Hornberger for approval of a driveway setback variance to Section 1156.02 at 234 North Union Street on approximately 0.30 acres and zoned R-3 (One Family Residential District), with the following conditions that:

1. The driveway apron and sidewalk shall be replaced per the City Engineer requirements.
2. The driveway and any potential stormwater drainage issues shall achieve compliance with the City Engineer requirements.
3. The future parking pad/carport shall achieve compliance with all City development requirements.



2019-1333
 Driveway Setback Variance
 234 North Union Street
 Location Map





2019-1333
Driveway Setback Variance
234 North Union Street
Zoning Map





2019-1333
Driveway Setback Variance
234 North Union Street
Aerial (2016) Map



Appeal for Variance for completion of driveway at 234 N. Union St.

We are requesting a variance for the completion of our driveway at 234 N. Union St. We would like to continue the existing driveway along the left side of the property into the backyard. The driveway will end at a large carport in the rear of the property. We have submitted a drawing of the path the driveway will take (not to scale).

Currently, there is already a driveway-size curb cut-out on the left side of the property as well as an asphalt portion of driveway (see photo). At one point in the past, there was a full driveway that was utilized by the previous owners. We have spoken to many neighbors who have lived around our home for many years. They have indicated that the previous owners parked their cars in this driveway. The last family member was elderly, homebound, and unable to drive, and that is why the driveway has fallen into disrepair.

We have spoken to our neighbor whose property abuts the proposed driveway expansion, and they are in favor of us finishing the driveway along the property line. He has submitted a letter stating this in the attached documents. Thank you for your consideration.





Driveway 10x98 ft.

Cement Pad
18x27 ft.

234 N. Union St. Aerial View Driveway Placement



Calvert Properties

1709 Sherwood road Ashley, Ohio 43003 740-369-1077

To; City of Delaware

Re;234 N. Union street Delaware, Ohio

4-18-19

This letter confirms that we have no objection to John Hornberger pursuing a variance for a driveway to lead to a garage utilizing the existing cut in the curb.



Thanks, Steve Calvert



**CITY OF DELAWARE, OHIO
PLANNING & COMMUNITY DEVELOPMENT
MASTER APPLICATION FORM**



Project # _____

Case # _____

RECEIVED

2019-1333

Planning Commission

- | | | |
|--|---|---|
| <input type="checkbox"/> Amended Final Development Plan | <input type="checkbox"/> Final Development Plan Extension | <input type="checkbox"/> Substitution of a Non-Conforming Use |
| <input type="checkbox"/> Amended Final Subdivision Plat | <input type="checkbox"/> Final Subdivision Plat | <input type="checkbox"/> Vacation-Alley |
| <input type="checkbox"/> Amended Preliminary Development Plan | <input type="checkbox"/> Final Subdivision Plat Extension | <input type="checkbox"/> Vacation-Easement |
| <input type="checkbox"/> Amended Preliminary Subdivision Plat | <input type="checkbox"/> Floodplain Permit | <input type="checkbox"/> Vacation-Street |
| <input type="checkbox"/> Annexation Review | <input type="checkbox"/> Lot Split | Board of Zoning Appeals |
| <input type="checkbox"/> Combined Preliminary & Final Development Plan | <input type="checkbox"/> Pre-annexation Agreement | <input type="checkbox"/> Appeal Administrative Decision or Interpretation |
| <input type="checkbox"/> Comprehensive Plan Amendment | <input type="checkbox"/> Preliminary Development Plan | <input type="checkbox"/> Conditional Use Permit |
| <input type="checkbox"/> Concept Plan | <input type="checkbox"/> Preliminary Dev Plan Extension | <input type="checkbox"/> Substitution of Equal or Less Non-Conforming Use |
| <input type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Preliminary Sub Plat | <input checked="" type="checkbox"/> Variance |
| <input type="checkbox"/> Determination of Similar Use | <input type="checkbox"/> Preliminary Sub Plat Extension | |
| <input type="checkbox"/> Development Plan Exemption | <input type="checkbox"/> Rezoning | |
| <input type="checkbox"/> Final Development Plan | <input type="checkbox"/> Subdivision Variance | |

Subdivision/Project Name _____ Address _____

Acreage 0.30 Square Footage _____ Number of Lots _____ Number of Units _____

Zoning District/Land Use _____ Proposed Zoning/Land Use _____ Parcel # _____

Applicant Name Michael Hornberger Contact Person Michael Hornberger

Applicant Address 234 N. Union St. Delaware, Oh 43015

Phone 614-440-9494 Fax _____ E-mail michaelhornberger@hotmail.com

Owner Name Michael & Rebecca Hornberger Contact Person Michael Hornberger

Owner Address 234 N. Union St. Delaware, Oh 43015

Phone 614-440-9494 Fax _____ E-mail michaelhornberger@hotmail.com

Engineer/Architect/Attorney _____ Contact Person _____

Address _____

Phone _____ Fax _____ E-mail _____

The undersigned, do hereby verify the truth and correctness of all facts and information presented with this application and authorize field inspections by City Staff.

[Signature]
Owner Signature

Michael Hornberger
Owner Printed Name

NA
Agent Signature

NA
Agent Printed Name

Sworn to before me and subscribed in my presence this 3rd day of June, 2019



MICHELLE R THOMAS
Notary Public, State of Ohio
My Comm. Expires Nov. 22, 2021
Recorded in Delaware County
Notary Stamp

[Signature]
Notary Public