



1368 Research Park Dr
Beavercreek, Ohio

BEAVERCREEK BOARD OF ZONING APPEALS
Regular Meeting – October 14, 2020, 6:00 p.m.
Council Chambers

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. REORGANIZATION
- V. APPROVAL OF MINUTES
 - A. January 8, 2020 Regular
 - B. September 9, 2020 Work Session
- VI. PUBLIC HEARINGS
 - A. V-20-2, Charles Brackenhoff, 2823 Maginn Drive
- VII. ADJOURNMENT

BEAVERCREEK BOARD OF ZONING APPEALS
REGULAR MEETING, January 8, 2020, 6:00 PM

PRESENT: Mr. Archibald, Mr. Bhatla, Mr. Duerr, Mr. Porter

ABSENT: Mr. Althoff

Chairman Duerr called the meeting to order followed by roll call.

Mr. Archibald MOVED to excuse Mr. Althoff from the meeting, seconded by Mr. Bhatla. Motion PASSED by majority voice vote.

Mr. Archibald MOVED approval of the agenda, seconded by Mr. Bhatla. Motion PASSED by majority voice vote.

Mr. Porter MOVED approval of the November 13, 2019 minutes, seconded by Mr. Bhatla. Motion PASSED by majority voice vote.

PUBLIC HEARING

V-20-1, Tiffany Young, 3949 Gardenview Drive

Clerk Gillaugh read the notice of public hearing on an application filed by Tiffany Young, 3949 Gardenview Drive, Beavercreek, OH 45431. The applicant is requesting a variance from Chapter 158.031 (F)(1) of the City of Beavercreek Zoning Code, requesting permission to construct an addition that would encroach into the 40-foot required front yard setback in a R-1A District. The property is located on the south side of Gardenview Drive, four lots east of the intersection of Longwood Drive and Gardenview Drive further described as Book 1, Page 11, Parcel 49 on the Greene County Auditor's Property Tax Atlas.

Tiffany Young-Ipsen stated they are requested an addition to be constructed on the front of the house since the existing addition to the rear of the home was destroyed in the tornado. Mrs. Young-Ipsen explained Greene County would not allow them to construct the addition on the back of the house so they are asking for a 3-foot 9-inch variance into the front yard.

Ms. Pereira summarized the staff report dated December 18, 2019, which stated the applicant is requesting a variance to construct an addition into the required front yard by 3.75 feet. She discussed the location of the property, the front yard setback requirement in an R-1A District, the dimensions of the addition, the requirements from Greene County Building Department that would not allow the addition to be constructed on the back of the house where it had been located previously, and the insurance company requirements. Ms. Pereira explained some of the homes in the neighborhood do not meet the current setback, so it would not be an eyesore and would be an improvement of the property. Staff recommended approval of the case with one condition.

There being no public input, the public hearing was closed.

Mr. Archibald thought this made complete sense and was sorry for the loss they had from the tornado.

Mr. Bhatla stated he was in agreement with Mr. Archibald and staff that this request is reasonable and should be approved.

Mr. Duerr said he was sorry to hear of the loss. He asked if there were any neighbor concerns. Mrs. Ipsen stated they have discussed it with their neighbors and no one seems to have any concerns with it.

Mr. Archibald MOVED to approve V-20-1 with one condition:

1. A residential zoning permit must be approved by the Planning and Development Department prior to the construction of the addition.

Motion was seconded by Mr. Bhatla, and PASSED by a roll call vote of 4-0.

ADJOURNMENT

Mr. Porter MOVED adjournment at 6:13 p.m., seconded by Mr. Bhatla. Motion PASSED by majority voice vote.

Melissa Gillaugh
Deputy Clerk

BEAVERCREEK BOARD OF ZONING APPEALS
WORK SESSION, September 9, 2020, 6:00 PM

PRESENT: Mr. Althoff, Mr. Archibald, Mr. Bhatla, Mr. Porter, Ms. Rodgers

ABSENT: None

Vice Chairman Bhatla called the meeting to order followed by roll call.

Mr. Archibald MOVED to excuse Mr. Porter from the meeting, seconded by Mr. Bhatla. Motion PASSED by majority voice vote.

Mr. Bhatla MOVED approval of the agenda, seconded by Mr. Archibald. Motion PASSED by majority voice vote.

DISCUSSION ITEMS

BZA Procedures

Stephen McHugh, Law Director, stated he was going to go over some of the general guidelines and procedures for the Board tonight. He discussed the two types of variances and said the only variances they would hear would be area variances.

Mr. Porter arrived at 6:06pm.

Mr. McHugh reviewed the seven Duncan Standards. He discussed several examples of cases and asked how the Board of Zoning Appeals thought the court ruled on the cases. There was discussion on each case between Mr. McHugh and the Board members.

Mr. McHugh explained the Board of Zoning Appeals is a quasi-judicial administrative body. He stated they are to make decisions and the City of Beavercreek is setup that if an appeal is filed it goes through City Council. Mr. McHugh said it is crucial for the Board to discuss and build a record why a case should be approved or denied based on the standards in the Zoning Code.

Mr. McHugh discussed the Ohio Sunshine Law-Public Records regarding personal emails and social media. He reviewed open meetings law, and the duty to recuse. He referred to the City of Beavercreek Zoning Code section regarding the Board of Zoning Appeals.

ADJOURNMENT

Mr. Archibald MOVED adjournment at 7:38 p.m., seconded by Mr. Porter. Motion PASSED by majority voice vote.

Melissa Gillaugh
Deputy Clerk



October 8, 2020

BOARD OF ZONING APPEALS STAFF REPORT

CASE: V 20-2

APPLICANT: Charles Brackenhoff
2823 Maginn Drive
Beavercreek OH 45432

NATURE OF REQUEST:

The applicant is requesting approval of a variance to allow for the construction of an accessory structure that would encroach into the rear and side yard setbacks by six feet.

FINDINGS:

1. The property under discussion is located at 2823 Maginn Drive, within Section 23 of Tara Falls.
2. The property has a zoning designation of R-1A, One Family Residential.
3. Section 158.104 (A) of the City of Beavercreek Zoning Code states that in no event shall any detached accessory structure be located nearer than ten feet from side and rear property lines.
4. The applicant is proposing to construct a 10-foot wide by 12-foot deep shed at the rear of his property.
5. The shed would be located 4 feet from the side property line and 4 feet from the rear property line.

DISCUSSION:

As the applicant has explained in his justification for a variance, he received approval for a shed location that met the current requirements of the zoning code; 10 feet from the side and rear property lines. However, due to the upwards slope of the property from front to back, once the shed was installed, several issues with its location were made apparent. The shed was

perched at the edge of the slope, requiring additional structural support for stability. This required that the shed be built taller, becoming more obtrusive to neighboring properties. Because of the grade difference, a ramp was required to enter and exit the shed, but because of the location of utility lines, no digging in that area could be performed to install that ramp or any landscaping to hide the supporting members at the bottom of the shed.

The applicant had the shed removed and returned at his own expense, and is now proposing a significantly smaller shed in a location that would be safer and less imposing. This position, 4 feet from the side and rear property lines, places the shed in the flattest spot on the property. The applicant has worked with the City in coming to a reasonable resolution, with the smallest possible variance that does not have a detrimental effect on the surrounding properties.

Staff finds that the variance request from §158.104 (A) meets the requirements for approval per §158.172 (H)(5)(a) of the City of Beavercreek Zoning Code.

RECOMMENDATION:

Staff recommends that the Board of Zoning Appeals find that:

1. The reasons set forth in the application are valid and do justify the granting of the requested variance, and
2. The eight items in §158.172 (H)(5)(a) have been fully satisfied.

Staff further recommends that the Board of Zoning Appeals adopt the attached resolution approving a variance from §158.104 (A).

**RESOLUTION
BOARD OF ZONING APPEALS
CASE NO. V-20-2**

WHEREAS, Charles Brackenhoff, has made application for a variance from the strict application of the requirements of the City of Beavercreek Zoning Code for the property located at 2823 Maginn Drive; and

WHEREAS, the applicant is requesting permission to construct an accessory structure that would encroach 6 feet into the required 10- foot side and rear yard setback in a R-1A zoning district; and

WHEREAS, a public hearing was held on October 14, 2020, at which time all persons were given opportunity to comment on the application; and

WHEREAS, the Board of Zoning Appeals finds that the reasons set forth in the application are valid and justify the granting of the variance; and

WHEREAS, the Board of Zoning Appeals finds that subparagraphs 1 through 8 of §158.172 (H)(5)(a) have been fully satisfied.

NOW therefore the Board of Zoning Appeals orders that:

A variance from the 10- foot side and rear yard setback back requirement to allow for the construction of an accessory structure 4 feet from the side and rear property lines in a one family residential zoning district be approved with the following conditions:

1. An accessory structure zoning permit must be approved by the Planning and Development Department prior to the construction of the accessory structure.

Action by the Board of Zoning Appeals:

(Date)

Chairman



1 inch = 52 feet

City of Beavercreek
Department of Planning & Development
Zoning Department, Board of Zoning Appeals
1368 Research Park Drive, Beavercreek Oh 45432

10 September 2020

References:

1. Homeowner's (Brackenhoff) Original Accessory Structure Zoning Permit Application, 19 June 2020
2. City of Beavercreek Dept., Zoning Permit, 22 June 2020

To: Dept. of Planning & Development and Zoning Board of Appeals,

Re: Request for Variance from Back Lot and Side Lot Lines of six (6) feet, i.e., four (4) ft from Back an Side Property Line

History:

Mid June 2020: Prior to submitting my Accessory Structure Zoning Permit Application on 19 June 2020, I spoke with personnel from the Planning & Development Office on the permit process and zoning limitations from back lot and side lot lines from my property line for an outdoor shed.

I explained that my backyard has a very steep hill and that I cleared off trees/shrubbery at the top of the back of the lot and only had one (flat) location that could accommodate the outdoor shed.

The constraints on the placement of the shed:

1. From backyard setback to beginning of the hill, slopes downward and varies due to the terrain of the backyard.
2. There are numerous cable and electrical lines that limit placement of shed and will prohibit planting of any shrubs around the shed.
3. Facing the backyard, the entire area on top of the hill has a significant slope from the right to left side of the backyard.
4. Trees prevent placement of shed.

However, the only area that was "flat" for a placement of the shed, would require a variance. It was explained to me that the Board of Zoning Appeals would not approve a variance "if" they could find a suitable location for the shed anywhere on my property.

Based on this information, the only location that I could place the shed 10 ft from and side lot, was the location identified in my original Zoning Permit Application that was approved by the Dept. of Planning & Development (Ref 1 and 2 above). Once I had permit approval, I contacted Beachy Barns and ordered the shed.

Note: This was not my first choice for the location of shed. But due to issues described below, I am now requesting a variance for another location of a shed. (The shed has been returned to Beachy Barns, builder).

Aug 6, 2020: Beachy Barns delivered/setup the shed on the location identified on my original permit application. (see pics).

Aug 20, 2020: Beachy Barns removed the shed from my property and refunded me a portion of the cost of the shed.

The reasons for removing the shed (as depicted in the pictures):

1. To be in-compliance with the 10' back lot line, the shed is literally right on the edge of the hill and appeared it was ready to slide down at any time.
2. The height of the shed increased dramatically with the placement of treated lumber and concrete bricks underneath to level the shed.
3. Unable to plant any shrubbery around the front facing side of the shed due to buried electrical and cable lines.
4. Due to the slope of the top of the hill along the backyard, the dirt along the back/side of the shed was dug out 8-10" and the front (side with the double doors) needed concrete bricks and treated lumber to "level" the shed.
5. To get into the shed, the distance from the ground to the shed floor was 15-18 ". This significant elevation negated the use of the provided ramp and I would need to build a ramp that extended 7-9 ft from the double doors over electrical and cable lines due to the continued downward slope of the ground.
6. The shed placement met the back and side lot setbacks of 10 ft, but looked like a huge negative distraction to my neighbors.

Need for outdoor storage shed:

1. Due to the limitations of the so called 3-car garage, which is not really a 3-car garage. If a shed is built, it will only be a 2-car garage due to other space limitation in garage area:
 - a. There is only 6-8 inches on each side of garage walls and unable to hang any tools, etc.
 - b. Due the elevation of the house on the property, there is literally a built-in "stair case" to get into the house from garage that prevents parking of riding mower and the pull behind trailer, i.e, just enough room to park a honda.
 - c. I have already built shelves to accommodate storage, but need shed for my riding lawn mower, pull behind trailer, other mower accessories, outdoor tools (shovels, rakes, axe, etc.), lawn and garden supplies/equipment, etc.
2. The surrounding property on both sides and behind my property on the "hill" are all trees or wild shrubbery. (see pics)
3. All the reasons I outlined above for having the shed removed and limitations of the backyard due to the hill, significant slope of the backyard, trees, and underground electrical and cable lines, etc.

Request for Variance: Four (4) ft from back lot and side lot lines to accommodate 10'x12' shed:
(see pics)

1. This is the only area that is flat in the backyard at the top of the hill.
2. 4'ft from back lot line would give me ample area to put shrubbery around the front facing of the shed since buried cable are literary right at the grass line. (see pics)
3. 4'ft from side lot line is needed due the existing tree and the proposed shed has an "overhang" over the double doors. (see pics)

Appreciate your consideration for the above back lot and side lot lines.



Charles & Sue Brackenhoff
2823 Maginn Drive
Beavercreek, Ohio 45434
937-974-5143 (cell)

Attached:

- Pictures of "Approved" Outdoor Structure (Shed) and Placement on Property
- Pictures of "proposed" location of shed

CITY OF BEAVERCREEK ACCESSORY STRUCTURE ZONING PERMIT

Reference 1

Date 19 June 2020

Permit _____

Fee _____

Address of Property 2823 Maginn Dr. Beaver Creek

Zoning District _____

Lot No. 1666 Subdivision Tara Falls Section 23

Parcel ID B42000 00 00 00

Name of Property Owner Charles & Lannie Sue Brackenhoff

Telephone 937-974-5143 (cell)

Contractor Beady Barns - Cottage Shed

Telephone _____

Accessory structure size 12' feet X 16' feet = 192 square feet.

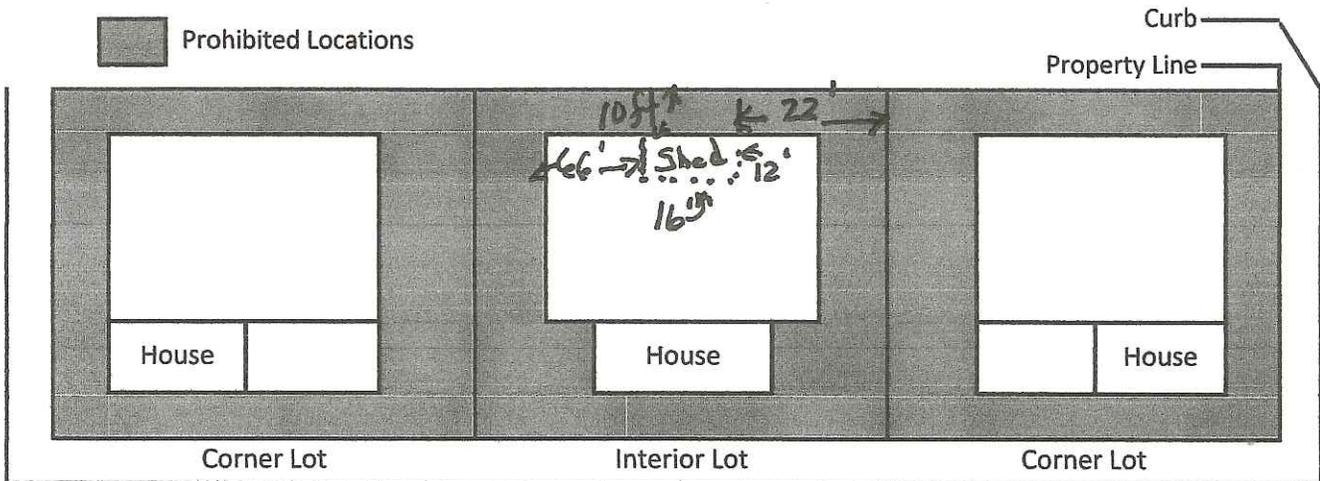
Distance from rear lot line 10 feet, from side lot line 22' + 66' feet.

Accessory structure height 12' feet.

Structure located in Floodplain: Yes No If yes, Floodplain Permit is required.

ACCESSORY STRUCTURE REQUIREMENTS

1. Detached garages may not be located nearer to the front property line than the main dwelling. All other detached structures are permitted only in the rear yard.
2. The structure may not be placed closer than ten (10) feet to any side or rear property line or within ten (10) feet of an alley.
3. Structure may not exceed 16 feet in height from grade.
4. Total square footage – see reverse side.
5. All detached accessory structures 201 square feet or larger require 1 set of construction drawings and 3 copies of a site plan drawn to Standard Engineering scale (e.g. 1"=30') showing the dimensions and shape of the lot, location of existing structures and exact location and dimensions of the proposed construction showing setbacks from property lines as well as a Greene County building permit (937-562-7420).



NOTE: LOCATE ALL EXISTING AND PROPOSED ACCESSORY STRUCTURES ON DRAWING.

I hereby certify that I am the property owner, or am authorized to act as the owner's agent in obtaining this permit. I further certify that all of the information and attachments submitted with this application are true and correct to the best of my knowledge and that the property owner is responsible for locating and verifying all property lines and boundaries. I understand that if this information is incorrect or incomplete, any permit issued may be invalid and the property owner may be required to remove this structure at his/her own expense. I hereby consent to the inspection of the subject property and of any buildings or structures relevant to this application. Any deviation from the approved plans will require submission and approval of the revised plans.

Charles.Brackenhoff@DAU.edu
Applicant's Email Address (Please print)

Charles Brackenhoff
Applicant's Signature

This application is: Approved Disapproved

Planning Department

Date

Reference 2



City of Beavercreek
Department of Planning & Development

1368 Research Park Drive
Beavercreek, OH 45432
937-427-5512
www.beavercreekohio.gov
planning@beavercreekohio.gov

ZONING PERMIT

R-20-393

ACCESSORY STRUCTURE -
RESIDENTIAL

SITE ADDRESS: 2823 MAGINN DR DAYTON
PRIMARY PARCEL: B42000600150017100
PROJECT NAME:

ISSUED: 06/22/2020

APPLICANT: BRACKENHOFF CHARLES R
2823 MAGINN DR
BEAVERCREEK OH 45434
Not Defined, XX 00000

OWNER: BRACKENHOFF CHARLES R
2823 MAGINN DR BEAVERCREEK OH 45434
Not Defined, XX 00000

PERMIT DETAILS

Detail Name	Detail Value
Contractor	Beachy Barns
Addition/Accessory Structure/Deck Size	Up to 200 sq.ft.
Total (Sq.ft.)	192.00
Structure Size (ft. x ft.)	12x16
Distance from rear lot line (ft.)	10
Distance from side lot line (ft.)	22
Height of structure (ft.)	12
Structure located in Floodplain Y/N	No

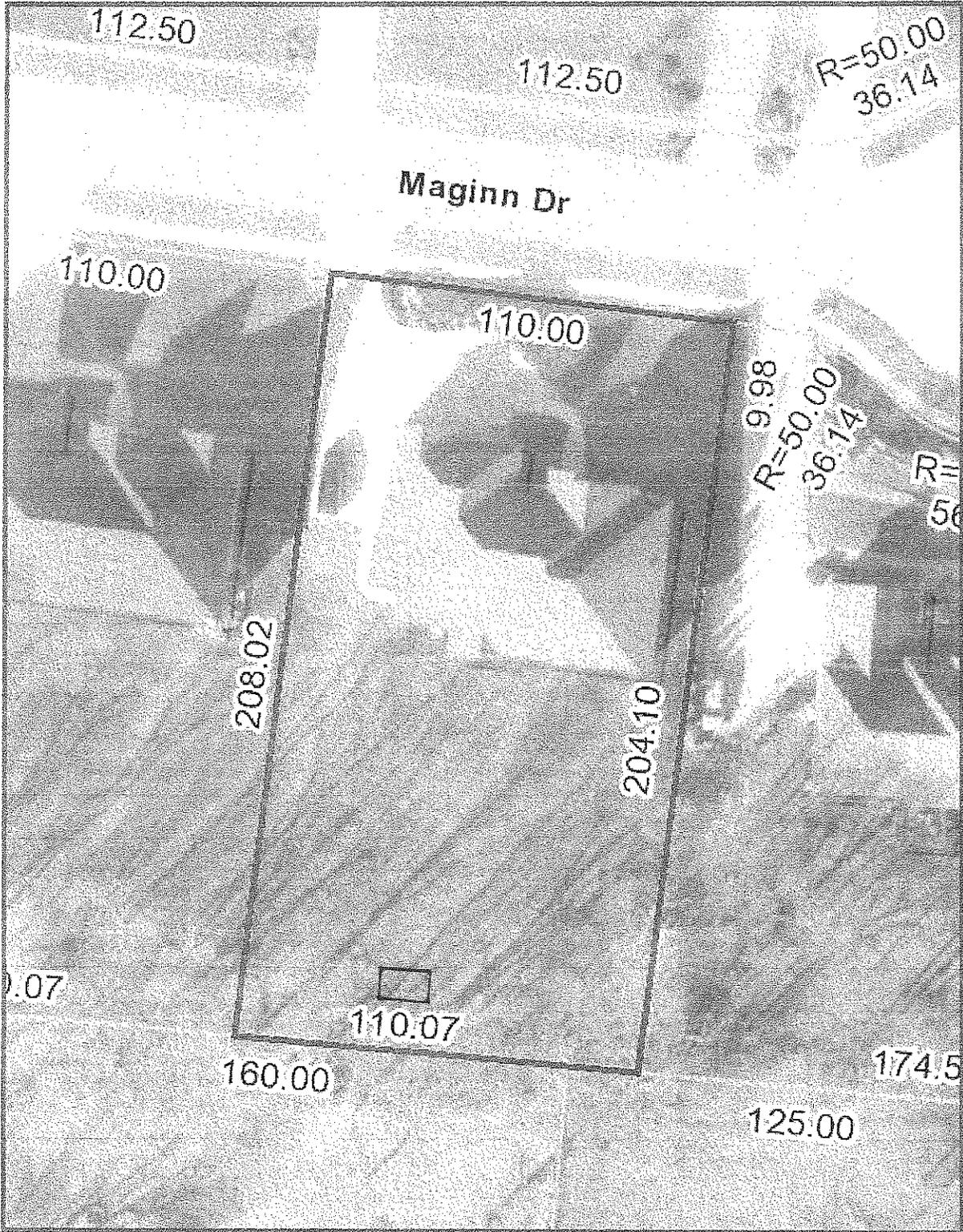
CONDITIONS

* The permit will expire six months from the date of issuance unless construction, relocation, remodeling, or use has commenced within the six month time period.

Issued By: Melissa Gillaugh

FEES:	Paid	Due
Addition/Accessory Structure/Deck - Residential	\$30.00	\$0.00
Totals :	\$30.00	\$0.00

2823 Maginn Drive



Greene County Legend

1 inch = 40 feet

	Interstate Highway		Schools	<u>71</u>	<u>Parcel Number</u>
	US Highway		Parks	<u>51</u>	<u>Lot Number</u>
	State Route		Buildings		Parcel Boundary
	Local Roads		Hydrography		Corporation Lines
			Topography		940

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.

NTS

Aug 2020, site of approved shed location



6 Aug 2020. Issues with “leveling” shed (front to back and side to side) and to be 10ft from back lot line. Note: Orange tape is property line.



View of shed from back of house, neighbors' view of shed, and slope of hill.



Note: height above ground to level shed and tree to right.



Note: Electrical and Cable lines, orange tape is backyard property line. (10'ft from rear lot line)



Note: Height above door and ramp would extend 7-9 ft and over electrical and cable lines).



Note: Location of underground electrical and cable lines that prevented ramp to elevated shed for riding lawn mower.



Note: At edge of hill, due to 10 ft rear lot line and buried lines that prevent planning shrubbery.



Note: Must maintain some distance from existing tree. If variance approved, shed would be to right of this tree, hence a need for a 4ft variance from side lot line.



Proposed
Shed
location

Note: 10 ft from rear lot line (property line) and slope of area downward.



Shed removed by Beachy Barns on 20 Aug 2020 (blue area). Proposed location of new shed is to the right of tree, red arrow.



Proposed location of shed (metal stakes). ONLY Flat area in back area. Request variance of 4 ft from back and side lot lines. I had fence installed several weeks ago about 3-6 inches in from back property line. Note: neighbor's vegetation/shrubbery/trees behind and to side of my property.



Note: metal pole approx. denote shed with adequate distance to add shrubbery/etc.



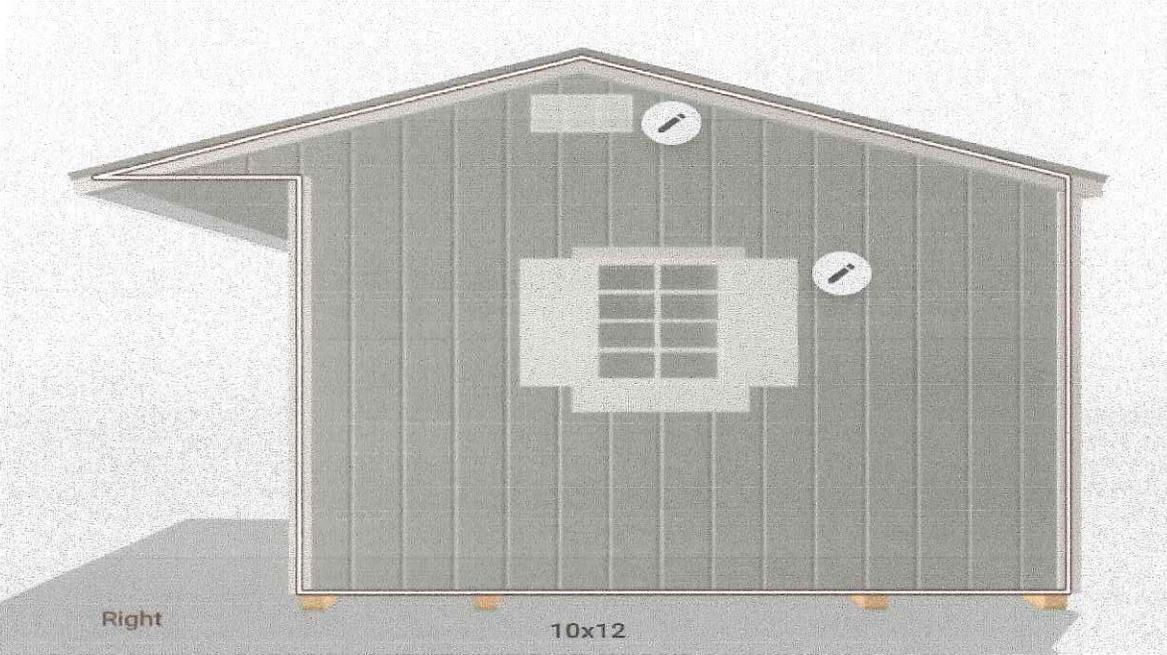
Note: Due to the buried cable lines, unable to have scrubby any closer, hence the need in previous picture to place plants in front of the shed area.



Note: Stakes are 4 ft from back lot and side lot line (my fence is 4-6 inches inside property line).



Proposed Shed. This will be the view looking up the hill to the backyard. Shrubbbery in other pictures will be in front of this side. Note: the overhang that will be close to the existing tree in other picture, hence the need for 4ft side lot from property line.



This view of the proposed shed is facing down the back side of the backyard. A tree in existing picture will be in front of the window and close to the roof overhang.

