

MEMORANDUM

TO: Board of Zoning Appeals
FROM: Ben Graham, MPA, Zoning and Planning Coordinator
DATE: May 10, 2025
SUBJECT: **BZA 25-0006** – 650 Pool Avenue - Variance from Table 1226-1 in City Code Section 1226.05 “Minimum Lot Frontage”

General Information

Applicant: Longhorn Development
650 Pool Avenue
Vandalia, Ohio 45377

Zoning: Residential Multi-Family (RMF)

Location: 650 Pool Avenue

Related Case(s): PC 24-04¹

Requested Action: Recommendation to City Council

Exhibits:

- 1 – Application
- 2 – Letter of Justification
- 3 – Location Map
- 4 – Site Plan
- 5 – Record Plan Draft
- 6 – Deed

Background

The Applicant, Brandon Kaiser, on behalf of Longhorn Development LLC has requested a variance to not meet the minimum lot frontage requirement. Table 1226-1 in City Code 1226.05 provides that lots with 5 or more dwelling units shall have at least 125 feet of frontage. Lot 3 will have 0 feet of frontage. Lot 1 has 153.21 feet of frontage and Lot 2 has 168.22 feet of frontage. Both Lot 1 and Lot 2 meet the requirements of the zoning code.

¹ On May 14, 2024, the Planning Commission approved a site plan review for "The Landing," which includes the development of three 10-unit multi-family residential buildings.

The overall layout of the buildings and drive will remain the same, but the lot will be divided into 3 separate lots, instead of being 1 lot. The buyer, Fischer Homes is requesting the Applicant to divide the property 3 ways in order to allow the transfer of 1 property at a time as they begin to build these multi-family buildings.

In the Letter of Justification, the Applicant explains “the original plan was to place 3 buildings on 1 lot. The previous configuration was approved in May 2024. Once approved, the current owner purchased the property in August 2024. In December, the buyer decided that in order to purchase, the property needed to be split into 3 lots.”

Staff notes that the arrangement of buildings, private streets, and other elements of the development would remain unchanged if this variance is approved. The proposed variance would allow the creation of a zero-frontage lot, which in turn would allow the buildings to be sold one at a time once complete.

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: As mentioned before, the buyer is not wanting to purchase the whole property at once. So, without the variance, there would not be any return on investment by our client (Longhorn Development).

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: As mentioned previously, we are only requesting a single variance on Lot #3 for "Lot Frontage". The Lot itself will have plenty of frontage along the private street, just not the public street per the zoning code definition.

Staff Comment: Staff does not feel 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: This variance would not change the character of the neighborhood. The multi-family nature of this site would be like surrounding properties.

Staff Comment: Staff does not feel that granting the variance 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: The private street would be contained within a proposed ingress/egress easement as well as the utilities. These easements will allow access and maintenance/repair of these services. The City guidance was followed when designing the cul-de-sac for emergency vehicle access.

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: As mentioned previously, the original plan was to place 3 buildings on 1 lot. The previous configuration was approved in May 2024. Once approved, the current owner purchased the property in August 2024. In December, the buyer decided that in order to purchase, the property needed to be split into 3 lots.

Staff Comment: Staff believes the property owner did not have knowledge of the zoning restriction before purchasing the property. When Staff first met with the Applicant, their intent was to have all the buildings on one property.

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

Applicant Response: We've discussed at length and the buyer insists that it be split in order for the individual building lots to be purchased one by one. Once each building is substantially completed, condominiums will be created. In other words, these internal lot lines will disappear in the future.

Staff Comment: Staff feels the owner's predicament cannot be obviated without a variance.

- (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 the spirit of the zoning requirement remains intact. This requirement is in place to prevent landlocked parcels and to ensure proper access to public streets. In this case, we have a private street that must be constructed in order to make this project viable at all. Access to Pool Avenue via the private street will be a benefit to all of the lots (and future condos).

Staff Comment: Staff feels that the intent behind the zoning code would 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.

Applicant Response: This project is already under construction and this multi-lot requirement by the buyer was unknown at the time that Longhorn Development purchased the property. We went through several options and ideas prior to requesting this variance. Several of our platting options would have required more than one variance. This final configuration limits the number of variances requested to 1.

Staff Comment: Staff feels there are no other relevant factors.

Recommendation

Staff's recommendation is that the Board of Zoning Appeals recommend **approval** of the requested variance from Table 1226-1 in City Code Section 1226.05 for the purpose of allowing Lot 3 of "The Landing" to have 0 feet of lot frontage at 650 Pool Avenue.

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: Longhorn Development
Mailing Address: [REDACTED]
Phone Number: [REDACTED]
E-mail Address: [REDACTED]
Owner Name**: Brandon Kaiser
Mailing Address: [REDACTED]
Phone Number: [REDACTED]

OFFICE USE ONLY
Filing Date 4/22/2025
Hearing Date 5/14/2025
Case No. BZA 25-0006

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

Location of Property

Street Address: 650 Pool Avenue, Vandalia, Ohio 45377
(north, south, east, west) side of Pool Avenue, 335 feet
(north, south, east, west) from the intersection of Helke Road
Attach copy of legal description of the property as recorded in the County Recorder's office.

Case Description.

Present Zoning District: RMF Total Acres: 3.000
Description of the existing use of property: Vacant former site of Willow Community Swimming Pool

Description of proposed use of property: Multifamily: 3 10-Unit Townhomes, with private cul-de-sac street and associated parking, utilities, landscaping and detention area. Site is currently under construction.

Specific Zoning Code provision that applicant is seeking variance from: Minimum Lot Frontage per Table 1226-1
Variance Requested: 0' of Road Frontage for Lot #3 of the attached draft plat.

Request for zoning certificate was refused on
Applicant must also attach a letter justifying the variance, see page 2, Section C for directions.

Applicant/Owner	Date
Brandon Kaiser	4-21-2025
Zoning Administrator	Date
Michael Hammes	

FILING FEES (office use only):	
Residential (\$159.00)	
Commercial (\$318.00)	
Receipt No.:	TOTAL:

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> 123 Clubhouse Way	<u>Parcel I.D. #</u> B02 00000 0000	<u>Owner Name</u> Carol Smith	<u>Owner Mailing</u> 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.

April 21, 2025

Planning & Zoning Department – City of Vandalia, OH
Attention: Michael Hammes
333 James E. Bohanan Drive
Vandalia, OH 45377

RE: The Landing – Zoning Variance Request

Dear Mr. Hammes:

The purpose of this letter is to humbly request a zoning variance for “The Landing” project located at 650 Pool Avenue. This project is currently under construction and will include 3 10-Unit Multi-Family Townhomes along with: a private cul-de-sac street, detention, landscaping, parking areas and associated utilities. The original plan was to have all the buildings on 1 lot prior to creating condominiums. This site configuration was approved by case # PC 24-04 in May of 2024.

Since that time, the buyer (Fischer Homes) has requested that we create 3 lots so that each “building pad site” can be purchased separately. This new configuration is shown on the attached pdfs and meets all RMF zoning requirements for Lots 1 and 2. However, Lot 3 would need a single variance for Lot frontage since it would only have frontage along the Private Street Cul-de-sac.

Per the Variance Review Criteria as shown in the Variance Application, we offer the following Explanations:

- 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: As mentioned before, the buyer is not wanting to purchase the whole property at once. So, without the variance, there would not be any return on investment by our client (Longhorn Development).
- 2) Whether the variance is substantial: As mentioned previously, we are only requesting a single variance on Lot #3 for “Lot Frontage”. The Lot itself will have plenty of frontage along the private street, just not the public street per the zoning code definition.
- 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: This variance would not change the character of the neighborhood. The multi-family nature of this site would be like surrounding properties.

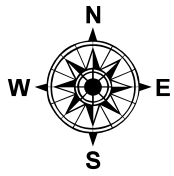
- 4) Whether the variance would adversely affect the delivery of government services (i.e., water, sewer, garbage): The private street would be contained within a proposed ingress/egress easement as well as the utilities. These easements will allow access and maintenance/repair of these services. The City guidance was followed when designing the cul-de-sac for emergency vehicle access.
- 5) Whether the property owner purchased the property with knowledge of the zoning restriction: As mentioned previously, the original plan was to place 3 buildings on 1 lot. The previous configuration was approved in May 2024. Once approved, the current owner purchased the property in August 2024. In December, the buyer decided that in order to purchase, the property needed to be split into 3 lots.
- 6) Whether the property owner's predicament can feasibly be obviated through some method other than a variance: We've discussed at length and the buyer insists that it be split in order for the individual building lots to be purchased one by one. Once each building is substantially completed, condominiums will be created. In other words, these internal lot lines will disappear in the future.
- 7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance: We believe the spirit of the zoning requirement remains intact. This requirement is in place to prevent landlocked parcels and to ensure proper access to public streets. In this case, we have a private street that must be constructed in order to make this project viable at all. Access to Pool Avenue via the private street will be a benefit to all of the lots (and future condos).
- 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: This project is already under construction and this multi-lot requirement by the buyer was unknown at the time that Longhorn Development purchased the property. We went through several options and ideas prior to requesting this variance. Several of our platting options would have required more than one variance. This final configuration limits the number of variances requested to 1.

We appreciate your consideration. Hopefully, this additional insight into the project is helpful. If you have any questions, do not hesitate to call me at 937-388-0060.

Sincerely,

Nathan D. Tirey, P.E., P.S

Project Engineer



1 inch = 71 feet



City of Vandalia Board of Zoning Appeals

650 Pool Avenue

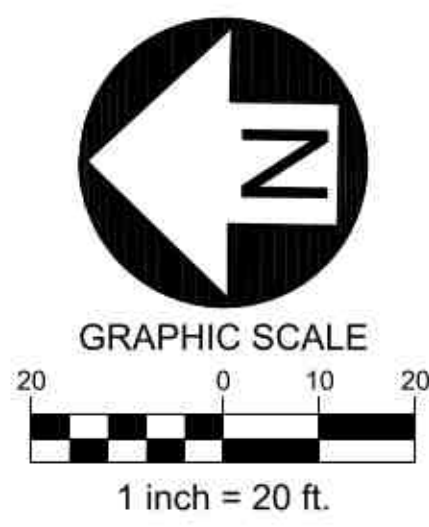
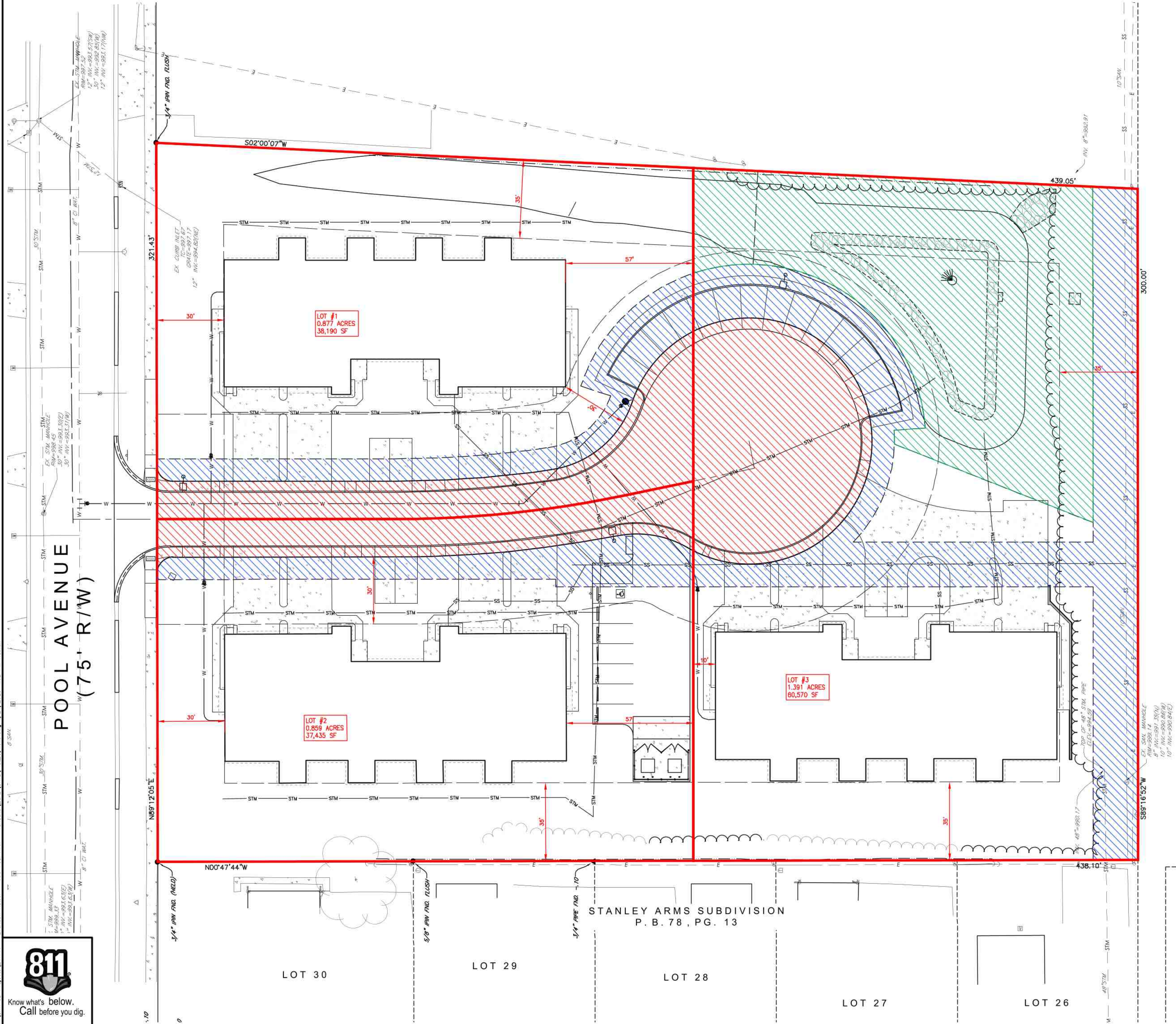
BZA 25-0006 Minimum Lot Frontage





Know what's below.
Call before you dig.

POOL AVENUE (75' R/W)



PLAT LEGEND	
	PROP. PRIVATE INGRESS/EGRESS & PUBLIC UTILITY EASEMENT
	PROP. PUBLIC UTILITY EASEMENT
	PROP. PRIVATE DETENTION EASEMENT

SITE DEVELOPMENT PLANS FOR:
THE LANDING
650 POOL AVENUE
CITY OF VANDALIA, MONTGOMERY COUNTY, OHIO



Design: NDT	Proj: 24.140
Draw: NDT	Dwg:
Check: JDB	Tab:
Scale: SEE SHEET	
Date: 10.14.2024	
Sheet: OPTION 1	
Sheet No.: 1 OF 1	

DESCRIPTION

Situate in the State of Ohio, County of Montgomery, City of Vandalia, Section 16, Township 3, Range 6 East being .3127 acres as shown and delineated upon this plat, all of the .3127 acres as conveyed to LONGHORN DEVELOPMENTS, LLC in I.R. Deed 24-044745, of the Montgomery County Deed Records, Montgomery County, Ohio.

Containing a total of .3127 acres, of which .3127 acres are in lots.

DEDICATION

We, the undersigned, being all the owners and lien holders of the lands herein platted, do hereby acknowledge the making and signing of said record plan to be our voluntary act and deed, and reserve the easements shown within the plat to the public for use forever.

Easements shown within the plat are for the construction, operation, maintenance, repair and replacement of water, sewer, gas, electric, telephone or other services and for the express privileges of removing any and all trees or other obstructions to the free use of said utilities, and for providing ingress to and egress from the premises for said purposes, and are to be maintained as such forever.

Drainage easement on detention to protect this area to remain a detention/drainage area. Drainage easement ownership and maintenance of the detention area as private and to remain under private ownership and maintenance.

Signed and Acknowledged
in the Presence of:

Witness (signature) Witness (signature) Owner (signature)

Witness (printed name) Witness (printed name) Owner (printed name)

OWNER'S STATEMENT

Date _____, 2025 State of Ohio, County of Montgomery, S.S.

_____, being duly sworn, says that all persons and corporations, to the best of his/her knowledge, interested in this dedication, either as owners or lienholders, have united in its execution.

In testimony whereof, I have hereunto set my hand and affixed my official seal on the day and date above written:

Notary Public in and for Montgomery County, Ohio
My Commission Expires _____

ACKNOWLEDGEMENT

State of Ohio, Montgomery County, S.S.
Be it remembered on this ____ day of _____, 2025, before me, a Notary Public in and for said state, personally came _____, to be known, and acknowledged the signing and execution of the foregoing plat to be their voluntary act and deed.

In testimony whereof, I have hereunto set my hand and affixed my official seal on the day and date written above.

Notary Public in and for Montgomery County, Ohio
My Commission Expires _____

CITY OF VANDALIA, OHIO

APPROVED BY DIRECTOR OF PUBLIC SERVICE

BEN BORTON DATE

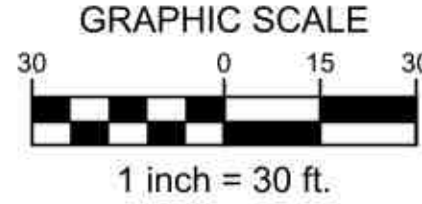
MONTGOMERY COUNTY ENGINEER
APPROVED FOR DESCRIPTION

DATE _____, 20 _____ JOB# 2025-XXXX RE

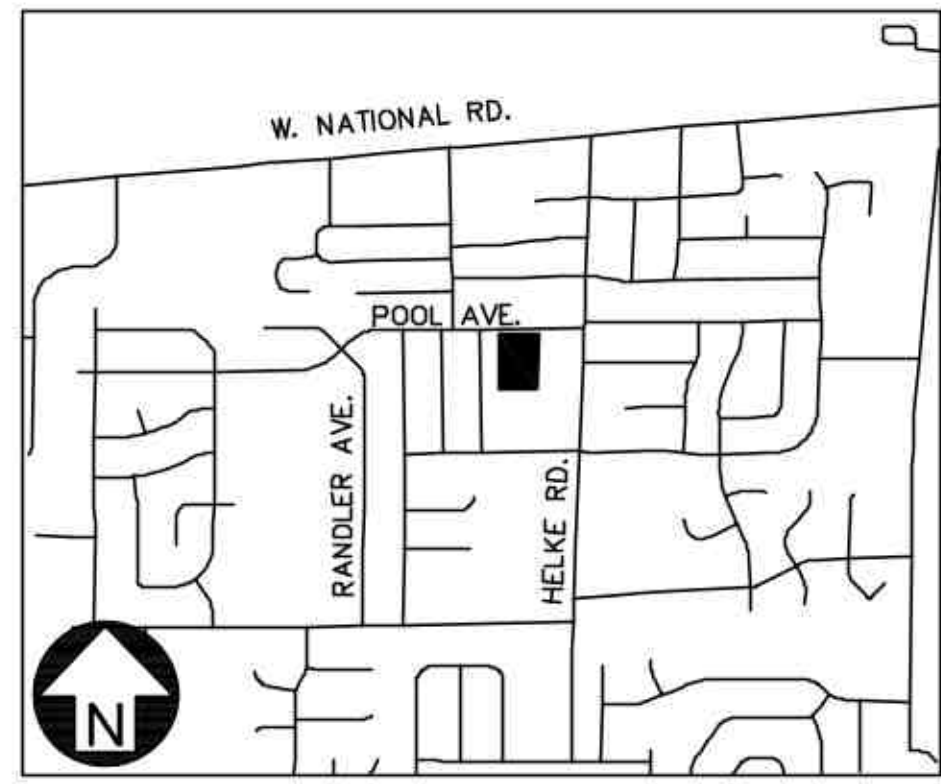
ANDREW J. SHAHAN, P.E., P.S., OR AUTHORIZED REPRESENTATIVE

CHECKED BY DATE

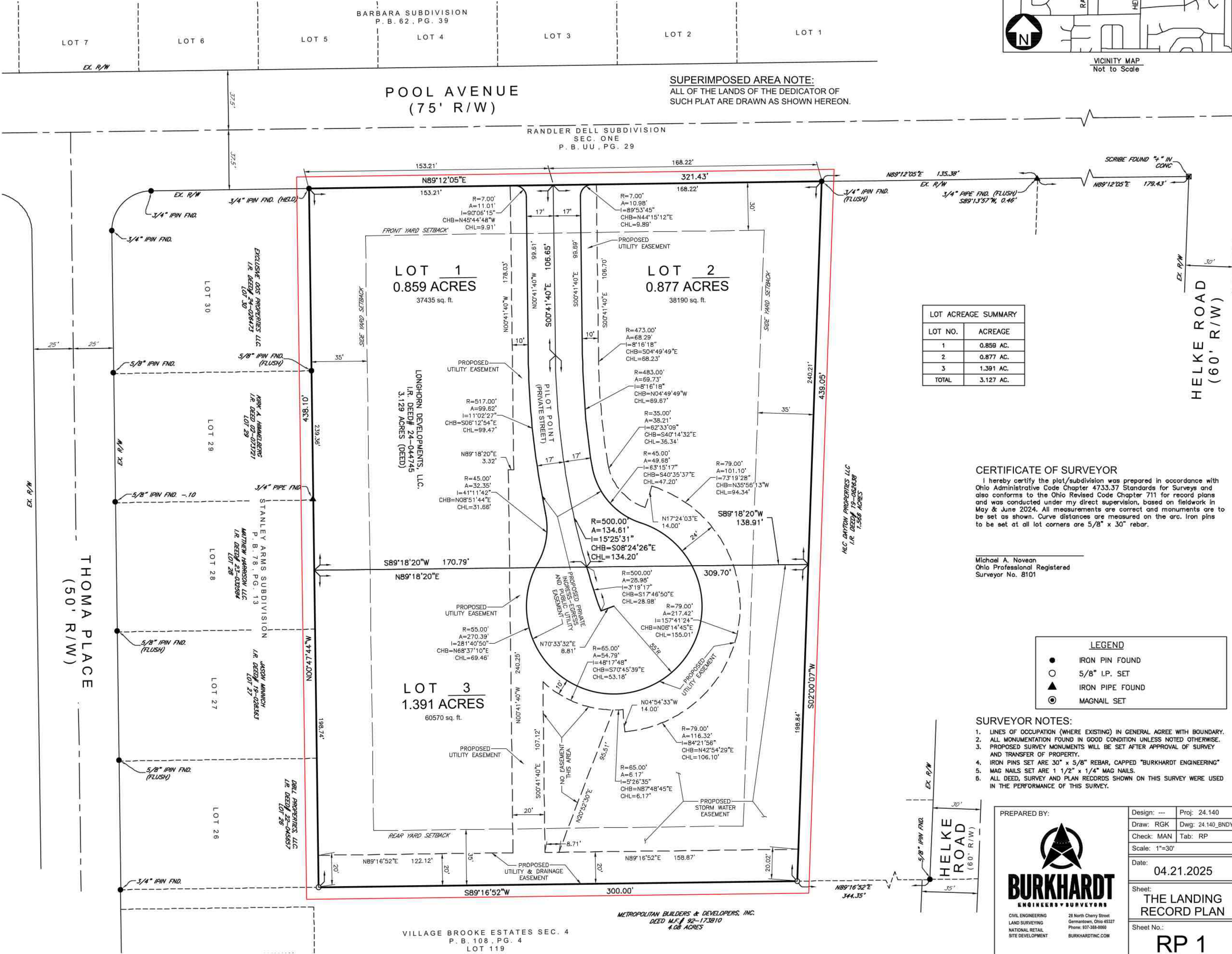
RECORD PLAN
THE LANDING
SECTION 16, TOWN 3, RANGE 6, EAST,
VANDALIA, MONTGOMERY COUNTY, OHIO
TOTAL AREA = 3.127 ACRES
(JULY, 2024)



BASIS OF BEARING: BEARINGS ARE BASED ON THE SOUTH LINE OF POOL AVENUE, TAKEN FROM STATE PLANE COORDINATE SYSTEM, NAD83(2011) ADJUSTMENT, GEOID18, OHIO SOUTH ZONE, O.D.O.T. VRS/CORS NETWORK (BEARING N 89°12'05" E)



VICINITY MAP
Not to Scale



CERTIFICATE OF SURVEYOR

I hereby certify the plat/subdivision was prepared in accordance with Ohio Administrative Code Chapter 4733.37 Standards for Surveys and also conforms to the Ohio Revised Code Chapter 711 for record plans and was conducted under my direct supervision, based on fieldwork in May & June 2024. All measurements are correct and monuments are to be set as shown. Curve distances are measured on the arc. Iron pins to be set at all lot corners are 5/8" x 30" rebar.

Michael A. Novacek
Ohio Professional Registered
Surveyor No. 8101

LEGEND

- IRON PIN FOUND
- 5/8" I.P. SET
- ▲ IRON PIPE FOUND
- ⊙ MAGNAIL SET

SURVEYOR NOTES:

1. LINES OF OCCUPATION (WHERE EXISTING) IN GENERAL AGREE WITH BOUNDARY.
2. ALL MONUMENTATION FOUND IN GOOD CONDITION UNLESS NOTED OTHERWISE.
3. PROPOSED SURVEY MONUMENTS WILL BE SET AFTER APPROVAL OF SURVEY AND TRANSFER OF PROPERTY.
4. IRON PINS SET ARE 30" x 5/8" REBAR, CAPPED "BURKHARDT ENGINEERING"
5. MAG NAILS SET ARE 1 1/2" x 1/4" MAG NAILS.
6. ALL DEED, SURVEY AND PLAN RECORDS SHOWN ON THIS SURVEY WERE USED IN THE PERFORMANCE OF THIS SURVEY.

PREPARED BY:



CIVIL ENGINEERING
LAND SURVEYING
NATIONAL RETAIL
SITE DEVELOPMENT

28 North Cherry Street
Germantown, Ohio 45327
Phone: 637-388-8068
BURKHARDTINC.COM

Design: --- Proj: 24.140

Draw: RGK Dwg: 24.140_BNDY

Check: MAN Tab: RP

Scale: 1"=30'

Date: 04.21.2025

Sheet:

THE LANDING

RECORD PLAN

Sheet No.:

RP 1

Type: DEED
Kind: DEE
Recorded: 08/26/2024 at 10:15:28 AM
Fee Amt: \$42.00 Page 1 of 3
Montgomery County, OH
Stacey Benson-Taylor Recorder
File# 2024-00044745

TRANSFER
14:48:07 8/23/2024
Reg DT06 Receipt 24625 Cashier KC
Montgomery County Auditor
Karl L. Keith
CONV # 013069 \$585.00

3
GENERAL WARRANTY DEED

Shock Properties, LLC, a Ohio Limited Liability Company, for valuable consideration paid, grant, with general warranty covenants, to Longhorn Developments LLC, whose tax mailing address is: 562 N Main Springboro OH 45066, the real estate described more particularly as follows: Exhibit A (the "Property").

The following are excepted from the general warranty covenants:

1. Easements, restrictions and covenants of record and legal highways; and
2. Real estate taxes and assessments not yet due and payable; and
3. Matters which a survey of the Property would disclose.

Auditor's Parcel Number: B02-00201-0034

Property Address: 650 Pool Avenue, Vandalia, OH 45377

Prior Instrument Reference: Instrument Number 04-120190, of the Deed Records of Montgomery County, Ohio.

OK

Executed this 8 day of August, 2024.

Shock Properties, LLC

By: [Signature]

Print Name: Drew A. Shock

Title: Member

Shock Properties, LLC

By: [Signature]

Print Name: Jacquelyn R. Shock

Title: Member

STATE OF Ohio)
COUNTY OF Montgomery) SS:

This is an acknowledgement clause; no oath or affirmation was administered to the signer. The foregoing instrument was acknowledged before me on the 8 day of August, 2024, by Drew A. Shock & Jacquelyn R. Shock Members of Shock Properties, LLC, a Ohio Limited Liability Company, on behalf of the company.

[Signature]
Notary Public

My commission expires: _____

This instrument was prepared by:
Brandon Kaiser, Esq.
Kaiser Law Practice LLC
6450 Poe Ave. Ste. 109
Dayton, Ohio 45414



Derek Mumford
Notary Public, State of Ohio
My Commission Expires:
08/08/2026

ME
Vantage Land Title
8075 Washington Village
Dayton, OH 45458

RETRACEMENT TRACT – 3.127 ACRES

Situate in Section 16, Town 3, Range 6, E., City of Vandalia, Montgomery County, Ohio and being all of a 3.129 acres (deed) tract as conveyed to Shock Properties, LLC, by deed recorded in I.R. Deed 04-120190 of the Montgomery County Deed Records; said tract being more particularly described as follows:

Beginning at a 3/4 inch iron pin found, said pin being the northeast corner of Lot 30 of the Stanley Arms Subdivision as recorded in Plat Book 78, Page 13, said iron pin also lying on the south right-of-way line of Pool Avenue (75' R/W) and being the northwest corner of tract and True Place of Beginning for the herein described tract;

Thence along the south right-of-way line of Pool Avenue, N 89° 12' 05" E, 321.43 feet to a 3/4 inch iron pin found, said pin also being the northeast corner of the subject tract and the northwest corner of a 1.566 acres parcel as conveyed to HLC Dayton Properties, LLC as recorded in I.R. Deed# 19-062638;

Thence departing the south right-of-way line of Pool Avenue along the west line of said 1.566 acres HLC parcel, S 02° 00' 07" W, 439.05 feet to a 5/8 inch iron pin with Burkhardt cap set, said pin being the southeast corner of the retracement tract, the southwest corner of the 1.566 acres HLC parcel and lying in the north line of Lot 119 of Village Brooke Estates, Section 4 as recorded in Plat Book 108, Page 4

Thence with the south line of the retracement tract and the north line of said Lot 119, S 89° 16' 52" W, 300.00 feet to a 5/8 inch iron pin with Burkhardt cap set; said pin being the southwest corner of said retracement tract and the southeast corner of Lot 26 of the Stanley Arms Subdivision;

Thence with the east line of said Stanley Arms Subdivision and the west line of said retracement tract, N 00° 47' 44" W, passing an 3/4 inch iron pipe and 5/8 inch iron pin on Lot 29 of said Stanley Arms Subdivision, for a total distance of 438.10 feet to the true place of beginning, containing 3.127 acres, more or less, subject however all highways, easements, and restrictions of record.

The above legal description is the result of a field survey performed in June 2024, under the direct supervision of Michael A. Novean, Professional Land Surveyor No. 8101. As filed in the Montgomery County Engineer's Office Record of Land Surveys, Volume 2024, Page 0225.

Basis of Bearing: Bearings are based on the south line of Pool Avenue taken from the State Plane Coordinate System, NAD83(2011) adjustment, Geoid18, Ohio South Zone, O.D.O.T VRS/CORS network (bearing N 89° 12' 05" E)

Prior Deed Reference: I.R. Deed 04-120190

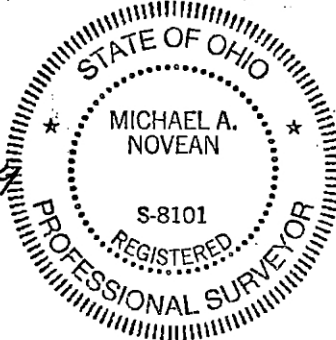


Michael A. Novean, PLS No. 8101

BURKHARDT ENGINEERING COMPANY

PHONE: 937-388-0060

Project # 24.140



MONTGOMERY COUNTY ENGINEER
APPROVED FOR POINT OF BEGINNING,
ACREAGE AND CLOSURE ONLY
DATE 7/31/2024 FILE NO. 2024-0225
BY Wayne B. H.

DRAFT

Minutes of the City of Vandalia Board of Zoning Appeals
April 23, 2025

Agenda Items

1. Call to Order
2. Attendance
3. Old Business
4. New Business
 - a. BZA 25-0005 - Total Accessory Structure Area – 221 North American Blvd.
5. Approval of Minutes
 - a. Board of Zoning Appeal Minutes: April 9, 2025
6. Communications
7. Adjournment

Members Present:	Mr. Mike Flannery, Mr. Mike Johnston, Mr. Steve Stefanidis, and Mr. Robert Wolfe
Members Absent:	Mr. Kevin Larger
Staff Present:	Mr. Michael Hammes, City Planner
Others Present:	Mr. Tory Elrich

1. Call to Order

Mr. Flannery called the meeting to order at 6:01 p.m. Mr. Flannery described the BZA as a recommending body that evaluated the BZA application and stated that the City Council would make the final decision on all appeal and variance requests but will not hold its own public hearing. He noted that City Council would hear the request at its May 19, 2025, regular meeting.

2. Attendance

Four of the members were in attendance. Mr. Larger was absent.

3. Old Business

Mr. Hammes confirmed that there was no old business.

4. New Business

a. BZA 25-0005 – Total Accessory Structure Area – 221 North American Blvd.

Mr. Hammes presented the staff report for Case BZA 25-0005, a request for a Total Accessory Structure Area variance on a residential property in the RSF-3 district. He stated that the applicant had constructed a 640 square foot shed on his property at 221 North American Blvd. Based on the size of the lot and the footprint of the existing home, the applicant is entitled to 512 square feet of accessory structures. With the existing 160 square foot shed, the new shed would bring the total accessory structure area to 800 square feet – 288 more than would otherwise be permitted.

Mr. Hammes displayed a photograph of the new accessory structure. He explained that the applicant, Mr. Tory Elrich, had purchased the 16' x 40' structure and had it delivered before learning that a permit and zoning approval would be required. After meeting with Zoning & Planning Coordinator Graham and Chief Building Official Mastrino, Mr. Elrich submitted a variance application.

Mr. Hammes referred to the applicant's site plan, showing the locations of the new and old accessory structures. He noted that the new shed would need to be moved forward 2 feet to account for the required setback and the utility easement.

Mr. Hammes reported that Staff recommended approval with one condition. The applicant would be required to secure a building permit and follow all recommendation of the Chief Building Official.

Mr. Stefanidis questioned whether the new structure could be moved forward, since it would have been anchored into concrete. Mr. Hammes replied that the applicant had not actually anchored the shed. Since there had been no building permit, the requirements for a building permit had not been followed. If the variance were approved, the applicant would need to move the shed and properly anchor it as part of that permit.

Mr. Stefanidis inquired about the utility easements at the rear of the property. Mr. Hammes explained that there is a five-foot utility easement along the rear property line.

Mr. Tory Elrich, of 221 North American Blvd., addressed the Board as the applicant. He referred to the letter he had submitted to the Board and confirmed that he had not known about the City's permit requirements prior to purchasing the shed. He explained that there were sewer lines behind his home, but that the new shed would not interfere with those utilities.

A discussion ensued regarding the setbacks and easements that determine placement of the new structure. Mr. Hammes confirmed that the new structure must be 5 feet away from any property line, but that that distance would be higher if the utility easement were larger than 5 feet.

Mr. Elrich, referring to his letter, noted that he had all utilities located before the shed was delivered.

Mr. Flannery replied, stating his concern about making sure that the applicant obtained a permit. He asked the applicant if there would be any problem with obtaining a permit. Mr. Elrich replied that he would have no problem getting a permit.

Mr. Wolfe asked if there were concerns from neighbors regarding the size of the structure. Mr. Elrich replied that the neighbors had complimented the structure and appreciated the upgrade to his property.

Mr. Hammes added that his office had not received any comments in favor of or against the application from the public.

Mr. Stefanidis asked if the applicant was willing to move the shed. Mr. Elrich replied that he and his father would be able to move the shed. A company in Indiana would be providing a quote for the appropriate anchoring system.

Mr. Stefanidis asked if there would or would not be a concrete pad. Mr. Elrich replied that there would be no concrete pad. Mr. Hammes added that official, certified and stamped drawings for the proposed anchoring system would be submitted to the Chief Building Official, who would compare those drawings to the Ohio Building Code to make sure that the system – whatever it involves – conforms to our standards. Mr. Hammes added that the anchoring system would need to be properly installed once approved.

Mr. Stefanidis asked if the shed had a floor. Mr. Elrich replied that there was a floor with 4x4 runners and other standard structures. He added that he and his father had a plan for moving the shed with a tractor.

Mr. Hammes reported that the proposed condition was not specific about steps required to comply with our building standards – only that the applicant comply with those standards. In essence, the applicant was being directed to do whatever the Chief Building Official says to do.

Hearing no further comments from the public, Mr. Flannery closed the public portion of the meeting.

Variance Criteria

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.

Variance Criteria (Cont'd)

- (2) Whether the variance is substantial;

BZA Comment: The Board agreed that the variance is somewhat substantial, given the proportion of accessory to primary structures.

- (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 with the proposed condition 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: The Board agreed that 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 that the owner's predicament cannot be obviated without a variance due to the size of the primary structure and the design of the lot.

- (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 the intent behind the zoning code would be observed by granting the variance.

Variance Criteria (Cont'd)

- (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 that, in the event that the requested variance is approved, a building permit would still be required.

Mr. Flannery reported that Staff recommends that the Board of Zoning Appeals recommend **approval** of the requested variance from City Code Section 1224.01(b)(9)(C) for the purpose of allowing accessory structures with a combined Total Accessory Structure Area of 800 square feet at 221 North American Blvd.

Mr. Hammes added that Staff further recommends that the following condition be included with any recommendation of approval:

1. The applicant must obtain a building permit and comply with all standards and requirements associated with that permit, as directed by the Chief Building Official.

Hearing no questions, Mr. Flannery called for a motion.

Mr. Wolfe made the motion to recommend **approval** of the requested variance from City Code Section 1224.01(b)(9)(C) for the purpose of allowing accessory structures with a combined Total Accessory Structure Area of 800 square feet at 221 North American Blvd., and that the recommendation include the proposed condition as articulated by Staff.

Mr. Johnston seconded the motion. The motion passed 4-0.

Mr. Flannery advised the applicant that it would be in his best interest to attend the City Council Study Session on May 5, 2025, at 5:30 p.m. and the City Council Meeting on May 19, 2025, at 7:00 p.m.

5. Approval of Minutes

a. Board of Zoning Appeal Minutes: April 9, 2025

Mr. Johnston made a motion to approve the April 9, 2025, Meeting Minutes. Mr. Wolfe seconded the motion. The motion passed 4-0.

6. Communications

Mr. Stefanidis made a motion to excuse Mr. Larger. Mr. Wolfe seconded the motion. The motion passed 4-0.

Mr. Hammes reported there would be a meeting on May 14, 2025. The Board will review a variance request for minimum lot frontage for a property on Pool Avenue.

Mr. Hammes asked the members to notify his office if they would be unable to attend a scheduled meeting.

7. Adjournment

Mr. Johnston made a motion for adjournment. Mr. Wolfe seconded the motion. The motion passed 4-0.

The meeting was adjourned at 6:32 p.m.

Mike Johnston
Vice Chair