

**APPLICATION FOR APPEAL
COLERAIN TOWNSHIP BOARD OF ZONING APPEALS**

4200 Springdale Rd
Cincinnati, Ohio 45251
(513) 385-7505; Fax (513) 245-6503

An appeal must be filed within 20 calendar days of the action causing the appeal (ORC 519.15)

Application number: BZA 2020-06

Owner: Jeff Reuter Applicant: Jeff Reuter

Property Address: 7875 Vegas Dr.

City: Cincinnati State/Zip: OH / 45239

Applicant Address: 7875 Vegas Dr.

City: Cincinnati State Zip: OH / 45239

Phone: (513) 307-0119

Auditor's Book-Page-Parcel Number: 510 -- 0082 -- 0191 & 510-0082-0327

Zoning Classification: Residential

Appeal to (check one): Refusal to issue Zoning Certificate Citation for Violation

Required Documents:

- Signed, typewritten *Justification of Variance* statement addressing the items listed on the reverse of this page - ~~8 copies~~ 3
- Site Plan (surveyor/engineer's seal may be required) and construction drawings - ~~8 copies~~ 3
- Names and addresses of adjacent property owners (use County Auditor's records) - ~~2 copies~~ 3
- Plat showing adjacent property owners - ~~2 copies~~ 3
- Fees. 3

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Office use only:	Appeal Fee:	<u>\$350</u>
	Legal Notice:	<u>\$30</u>
	Mailing/adjacent Property Owners:	<u>\$15.00</u>
	Total Amount Paid:	<u>\$385.00</u>

*An application for appeal will not be accepted until all of the requirements are met.
Failure to appear at the scheduled public hearing may result in dismissal of the appeal.*

Signature of Property Owner: *Jeff Reuter*

Signature of Applicant (if not the Owner): _____

Justification of Variance statement:

1. Describe the variance requested, referring to the specific relevant sections of the Zoning Resolution (as indicated in the Refusal letter or Violation letter).
2. Affirm that the use requested is permitted in the zoning district where the property is located.
3. Describe how the variance is not contrary to the public interest.
4. Describe how a literal enforcement of the zoning resolution would result in unnecessary hardship. Describe the specific hardship(s) related to special conditions unique to the individual property for which a variance is being requested.
5. Affirm that the need for a variance is not a result of the applicant's or owner's actions.

JAMES E. REUTER

ATTORNEY-AT-LAW
2997 WEST GALBRAITH ROAD
CINCINNATI, OHIO 45239-4220

TELEPHONE (513) 521 - 8400

TELEFAX (513) 521 - 8401
EMAIL ADDRESS jasreuter@gmail.com

August 21, 2020

[HAND DELIVERED]
Board of Zoning Appeals
Colerain Township
4200 Springdale Road
Cincinnati, OH 45251

Re: Application for Variance to Construct Privacy Fence
Property: 7875 Vegas Drive, Cincinnati, OH 45239
Auditor Parcel Nos.: 510-82-191 & 510-82-327
Owner/Applicant: Jeffrey W. Reuter
Original Application No.: Z2020-311
Notice of Refusal Date: August 14, 2020
BZA Case No.: BZA2020-06
TRANSMITTAL LETTER and JUSTIFICATION OF VARIANCE STATEMENT

Honorable Board:

I represent the Applicant, Jeffrey W. Reuter (my son), in the matter of this Application for Variance, relating to the Notice of Refusal of his Application for Zoning Certificate to construct a privacy fence on his real property located at 7875 Vegas Drive (the "Subject Property"), which he purchased in July, 2018.

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Enclosed are the following:

- Application for Appeal
- Notice of Refusal (Exhibit 1)
- Site Plan (Exhibit 2)
- Names and Addresses of adjacent property owners (Exhibit 3)
- Plat showing adjacent property owners (Exhibit 4)
- Satellite Image of Site and Photos of design of proposed privacy fence (Exhibit 5)
- Photo (Google Maps) of location of area of proposed fence (Exhibit 6)
- A check for fees in the amount of \$385.00 payable to "Colerain Township"

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The Applicant does not contest that the Zoning Officer correctly interpreted and applied Section 12.8.1 of the Colerain Township Zoning Resolution ("CTZR") in issuing the Notice of Refusal to issue a zoning certificate for the privacy fence. Therefore, this case is not an appeal of that refusal, but only an Application for Variance allowing the construction of the fence as proposed on the basis of unnecessary hardship. The pertinent facts, and justification for the variance (following the outline on the second page of the Application and using the numbering in that outline), are as follows:

1. “Describe the variance requested, referring to the specific relevant sections of the Zoning Resolution (as indicated in the Refusal letter ...”

The Applicant seeks to construct a six foot high privacy fence along the rear (west) line to the southwest corner of the Subject Property, then eastwardly for approximately 31 feet long the south (Rocker Drive) line (see Exhibit 2). The architectural front of the residence on the Subject Property faces east (Vegas Drive). But since the Subject Property is a corner lot (in effect, having two “front yards”) the portion of the proposed privacy fence along the west line in the south “front yard”, and the entire section of the proposed privacy fence along Rocker Drive, are not permitted under CTZR Section 12.8.1.

Nevertheless, in this case, a variance is entirely appropriate and justified under the circumstance present here, as explained below.

In 2003, the Board of Zoning Appeals granted a variance to the owners of the property at 3490 Rocker Drive (510-82-182, 183 cons.) which lies immediately to the west of the Subject Property. The variance approved an addition to the existing residence on that property, which approximately doubled the size of the footprint of the then existing structure, and permitted the expansion to significantly intrude into the 35 foot back yard required in the R-6 (“Urban Residential”) Zoning District (see CTZR Table 7-2). In fact, at its closest point, the addition is only about 17 feet from the west line of the Subject Property, and therefore, occupies about half of the normal rear yard. As a result, the expanded structure at 3490 Rocker literally looms over the backyard and patio of the Subject Property (see Google Maps photo attached as Exhibit 6), and places neighbors who wish only to enjoy some privacy in their respective back yards, uncomfortably close to one another.

2. “Affirm that the use requested is permitted in the zoning district where the property is located.”

The Subject Property (and all adjacent properties) are in the R-6 (“Urban Residential”) Zoning District. Fences are permitted in this zone (see CTZR Sec. 12.8). This is not a request for a use variance. It is a request for a variance only for the location of a privacy fence into the side yard and south “front yard” of the Subject Property.

3. “Describe how the variance is not contrary to the public interest”.

It is in the public interest for homeowners to be able to enjoy their homes, and to enjoy their outside spaces and yards with some reasonable expectation of privacy. Reasonable measures which enhance that enjoyment with some reasonable degree of privacy, particularly in a subdivision setting, are not contrary to the public interest, but in fact support it.

The attractively designed fence (see Exhibit 5), if erected in the proposed location, will not result in any aesthetic detriment to the neighborhood. The 31 foot section of the fence along Rocker Drive would still leave approximately 75 feet of the south “front yard” completely open and unobstructed. In fact, the safety standard of the “Vision Clearance Triangle” set out in CTZR Section 12.4 (for the unsignalized intersection of Rocker and Vegas Drives) is entirely protected. Therefore, there clearly is no aesthetic detriment, nor any safety issue which would result from the erection of the proposed fence.

4. “Describe how a literal enforcement of the zoning resolution would result in unnecessary hardship. Describe the specific hardship(s) related to specific conditions unique to the individual property for which a variance is being requested.”

A literal enforcement of the zoning resolution in this case would result in unnecessary hardship because the Applicant’s enjoyment of his backyard and patio, with some reasonable degree of privacy, are, and would continue to be, severely diminished. The conditions unique to the Subject Property which justify the grant of the variance are the vehicular and significant pedestrian traffic on Rocker Drive along the south and west lines (which are completely open to view), and the massive addition to the residence immediately to the west, which, at its closest point, lies only about 17 feet from the rear yard of the Subject Property.

As mentioned above, the CTZR burdens the owner of a corner lot with two front yards, thereby, as a practical matter, significantly reducing the area available to the owner for normal residential use and enjoyment. On the Subject Property, even if it were practical or feasible to remove and relocate the existing patio (which pre-dated the expansion of 3490 Rocker), there is no other good place to put it.

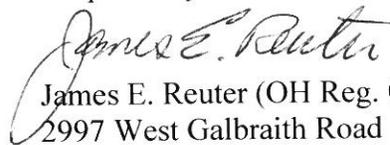
Finally, the COVID 19 pandemic has brought into sharp focus the need for people to stay home for their physical health, but to get outside to preserve their psychological well being. For most of us, this means being able to enjoy the limited outdoor spaces of our homes. This enjoyment is significantly and unnecessarily diminished when neighbors are in uncomfortably close spaces with little or no privacy.

5. “Affirm that the need for a variance is not a result of the applicant’s or owner’s actions.”

Clearly, the unnecessary hardship presented by the circumstances of this case are not the result of the Applicant’s actions.

For all of the foregoing reasons, the Applicant asks this Honorable Board to approve the requested variance, and allow the construction of the six foot privacy fence in the location set out on Exhibit 5.

Respectfully Submitted,



James E. Reuter (OH Reg. 0011414)
2997 West Galbraith Road
Cincinnati, OH 45239-4220
(513) 521 – 8400
Attorney for Applicant

JER/jr
enclosures

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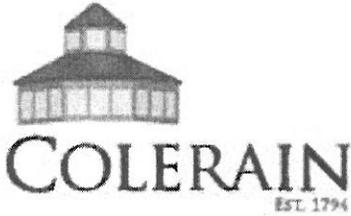


EXHIBIT 1

NOTICE OF REFUSAL

August 14, 2020

BZA CASE NO.: BZA2020-06

APPLICATION NO.: Z2020-311

TO APPLICANT: Jeff Reuter
7875 Vegas Drive
Cincinnati, OH 45239

Your application dated August 06, 2020 for a zoning certificate for a **privacy fence** at the premises designated at **7875 Vegas Drive, Cincinnati, OH 45239** is hereby refused on this **14th day of August, 2020** under **Section 12.8.1** of the Zoning Resolution, in that;

Section 12.8.1 – restricts the location of a 6-foot-high privacy fence to the rear yard and up to 25 percent of the side wall length in the side yard.

An appeal from this decision to the Colerain Township Board of Zoning Appeals is governed under Section 4.4 of the Zoning Resolution. We have received a copy of your application for appeal, but will need a justification for each variance requested for the items listed above. Please supply this information at your earliest convenience.

Respectfully,

Jesse Urbancsik, Planner
Planning & Zoning

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NOTE: ANY APPEAL FROM THIS REFUSAL MUST BE FILED WITH THE BOARD OF ZONING APPEALS WITHIN 20 DAYS FROM THE DATE OF THIS NOTICE. FOR FURTHER INFORMATION, CONTACT THE ZONING DEPARTMENT AT 385-7505.

Colerain Township • 4200 Springdale Road • Colerain Township, Ohio 45251
jurbancsik@colerain.org • www.colerain.org
Phone (513) 385-7505 • Fax (513) 245-6503

Trustees: Raj Rajagopal, Daniel Unger, Matt Wahlert
Fiscal Officer: Jeff Baker
Administrator: Geoff Milz

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Jeff Reuter
7875 Vegas Dr.
Cincinnati, OH 45239

Names and Addresses of adjacent property owners - Ex.3

1. Joan Fitzgerald - 3460 Rocker Dr. Cincinnati, OH 45239
2. Kevin Schulte - 3467 Rocker Dr. Cincinnati, OH 45239
3. Harry & Jada Gamble - 3471 Rocker Dr. Cincinnati, OH 45239
4. Sonja & Aleksander Dinevski - 3490 Rocker Dr. Cincinnati, OH 45239
5. Kevin & Carolyn Long - 7913 Vegas Dr. Cincinnati, OH 45239

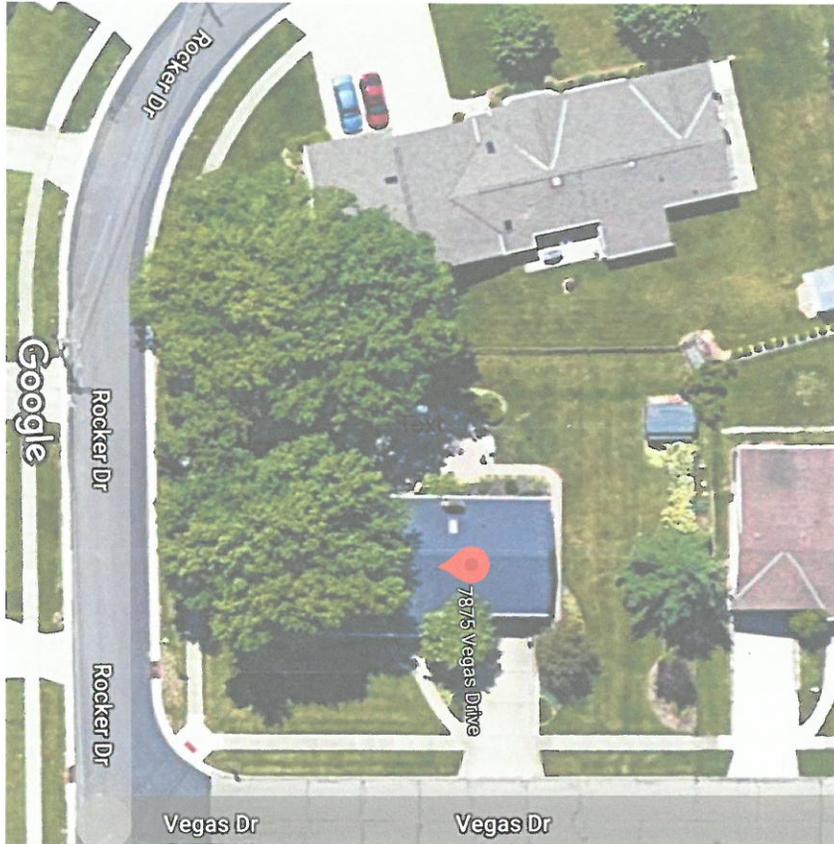
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Jeff Reuter
7875 Vegas Dr.
Cincinnati, OH 45239

Satellite Image of Site and Photos of design of proposed privacy fence - Ex. 5



Satellite Image of Site



Fence Design Example 1

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Fence Design Example 2

EXHIBIT 6

8/21/2020

3475 Rocker Dr - Google Maps

3475 Rocker Dr



Image capture: Aug 2011 © 2020 Google

Cincinnati, Ohio



Street View

Roller Dr

<https://www.google.com/maps/@39.2182118,-84.5992654,3a,65.7y,14.29h,92.35v/data=!3m6!1e1!3m4!1sEGrvYAjUkX5NpwhM4vYoBg!2e0!7i13312!8i6656>

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