



To: Colerain Township Board of Zoning Appeals

Re: Staff Report for September 23, 2020 Board of Zoning Appeals Hearing

Date: September 16, 2020

The Colerain Township Department of Planning & Zoning respectfully attaches the report and recommendation for review prior to the public hearing scheduled before the Board of Zoning Appeals on Wednesday evening, **September 23, 2020 at 6:30 pm**. This includes comments on the following agenda item:

Case No: BZA2020-06
Applicant: Jeff Reuter
Location: 7875 Vegas Drive
Request: The applicant is a variance from Section 12.8.1 for a front yard 6-foot privacy fence.

Staff will be prepared to address your comments and/or questions regarding the noted project during the public hearing. If you need additional information or clarification prior to that time, do not hesitate to contact myself or Jesse Urbancsik, who is the lead staff member on this application.

Respectfully,

Michael Ionna, AICP
Director of Planning & Zoning

cc: Jeff Reuter



4200 Springdale Road
Colerain Township, OH 45251

STAFF REPORT: **BZA2020-06**
7875 Vegas Drive
Fence Variance
September 23, 2020

PREPARED BY: Jesse Urbancsik, Planner

The applicant is requesting a variance from Section 12.8.1 for a front yard 6-foot privacy fence.

Site

Description: The subject property is located on the corner of Rocker Drive and Vegas Drive. The subject property is currently zoned “R-6” Urban Residential and is located in the White Oak character area of the Township, east of Cheviot Road.

The site in question is currently occupied by a detached single-family dwelling with an attached garage. The site is relatively built out with little to no room for additional improvements aside from typical accessory uses.

The site in question, as well as the surrounding areas, feature a built up character and form that is consistent with a typical suburban development pattern containing single-family residential dwellings.

History & Background:

The existing 1,653 square foot single-family dwelling on the site was constructed in 1963. On August 14, 2020, the applicant applied for a Zoning Certificate to construct a fence located in the front yard area of the site in question. The application was denied due to the proposed fence’s location in a front yard resulting the submitted request.

Surrounding Conditions:

	<u>Zone</u>	<u>Land Use</u>
North:	“R-6” Urban Residential	Single Family Residential
South:	“R-6” Urban Residential	Single Family Residential
East:	“R-6” Urban Residential	Single Family Residential
West:	“R-6” Urban Residential	Single Family Residential

Proposal: The subject property is located on a corner lot, and as such, the site has two front yards along each street frontage of the site. The applicant is requesting to install a six foot tall wooden privacy fence in the rear, side, and front yard of the property along the property line adjacent to the property located along Rocker Drive.

Requests: The applicant is requesting the following variance:

Section 12.8.1 of the Zoning Resolution states that “Fences in all residential and business districts may be erected as a privacy fence to a maximum height of 6 feet in a rear yard only. Such fence may encroach into the side yard up to a maximum distance equal to 25 percent of the side wall length.” The applicant is seeking a variance to allow for the construction of a 6 foot tall privacy fence that would be located in the front and side yard of the property (see site plan).

Statue: The Colerain Township Zoning Resolution states the following as it pertains to the approval or disapproval of a variance request:

4.4.2 of the Zoning Resolution states the following criteria shall be used to review all applications for variances:

(A) The Board shall not be authorized to grant a variance for a use that is otherwise prohibited in the zoning district in which the property is located.

(B) The Board may authorize a variance when such variance will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the resolution will result in unnecessary hardship, and so that the spirit of the resolution shall be observed and substantial justice done.

(C) The Board of Zoning Appeals may impose such conditions and restrictions upon the property benefited by a variance as the Board of Zoning Appeals may deem necessary to comply with the standards set forth in this section, to reduce or minimize the impact of such variance upon other property in the neighborhood and to further the purpose and intent of this Resolution.

(D) No grant of a variance shall be authorized unless the Board of Zoning Appeals finds that such variance from the provisions or requirements of this Resolution will not be contrary to the public interest, and owing to special conditions pertaining to a specific piece of property, the literal enforcement of the provisions or requirements of this Resolution would cause unnecessary hardship. The Board of Zoning Appeals may attach thereto such conditions regarding the location, character and other features of the proposed structure or use, as it may deem necessary in the interest of the furtherance of the purposes of the Resolution and in the public interest.

(E) No variance shall be considered or granted by the Board of Zoning Appeals, which would allow a change in use of a parcel, building or structure where such change of use could be accomplished by a redistricting of the subject property.

Recommendation:

Staff recommendation is DENIAL of the variance request.

Staff Comments/Findings:

1. The requested variance is not the result of a hardship on the property owner. Many of the properties located in the surrounding areas, including corner lots, do not have six feet tall privacy fences located in the front yard area.

As such, the granting of the variance would grant a consideration that is not available to other property owners in the neighborhood.

2. Staff's recommendations have been consistent with recommending denial on similar variance requests. A brief history of similar fence variances can be found below:
 - a. BZA2018-011 – Staff recommended denial, BZA approved.
 - b. BZA2018-01 – Staff recommended denial, BZA denied.
 - c. BZA2017-08 – Staff recommended denial, BZA approved.
 - d. BZA2015-07 – Staff recommended denial, BZA denied.
3. The property in question would likely yield a reasonable return without the variance. The applicant can easily meet the rear and side yard requirements for a privacy fence located on this corner lot.
4. There are no unusual topographic or site configuration issues related to this property which would prevent the reasonable application of the front yard regulations. The expressed nature of the hardship is based on an adverse relation between the adjacent property to the west. The applicant mentions the adjacent property's approved variance to extend the neighboring house more towards the subject property, thus not complying with the 35-foot setback.
5. By taking into consideration the benefit to the applicant if the variance is granted, as weighed against the potential detriment to the health, safety, and welfare of the neighborhood and broader community, staff finds that substantial justice would not be done by granting the variance for the front yard fence.