



Board of Zoning Appeals

November 19, 2019 6:15 PM

Agenda

1. Call to Order
2. Roll call
3. Approval of prior minutes of August 20, 2019
4. New Business:

Variance Case 19-04: Property Review Request – 1903 Sugar Maple Place

- Staff Summary
- Property Owner
- Public Input
- Board Discussion/Decision

Variance Case 19-05: Property Review Request – 22 E Franklin Street

- Staff Summary
- Property Owner
- Public Input
- Board Discussion/Decision

PRC Case 19-02: Property Review Request – 7 W Franklin Street

- Staff Summary
- Property Owner
- Public Input
- Board Discussion/Decision

5. Old Business:
6. Open Discussion
7. Adjournment

BELLBROOK BOARD OF ZONING APPEALS AND PROPERTY REVIEW COMMISSION
PUBLIC HEARING MINUTES
AUGUST 20, 2019

PRESENT: Mr. Aaron Burke
 Mr. Robert Middlestetter
 Mr. Philip Ogrod
 Mrs. Sharon Schroder
 Chairperson Brinegar

CALL TO ORDER:

Chairman Brinegar called the meeting of the Board of Zoning Appeals to order at 6:00 PM. The Clerk called the roll. Mr. Burke, yes; Mr. Middlestetter, yes; Mr. Ogrod, yes; Mrs. Schroder, yes; Mrs. Brinegar, yes.

Mr. Middlestetter moved to approve the prior minutes of July 16, 2019. Mrs. Schroder seconded the motion. Roll was called. Mr. Middlestetter, yes; Mrs. Schroder, yes; Mr. Burke, yes; Mr. Ogrod, yes; Mrs. Brinegar, yes. The motion carried 5-0.

It is noted for the record that Mr. Jeff Green, Planning and Zoning Assistant was in attendance.

NEW BUSINESS:

• **PRC Case #19-02 7 W Franklin Street**

Mr. Green presented the staff report detailing 26 property maintenance violations and requesting the Commission forward this case to prosecution. The property is owned by Greg Dart. City staff sent the owner a list of 29 violations on May 22, three of which have been resolved to date. The city requested a timeline for making the repairs. Mr. Green listed the subsequent history of the multiple attempts to reach out to the owner to discuss the situation.

Mr. Ogrod asked what three repairs had been completed. Mr. Green answered that the wood shingles were protected and painted, the missing soffit was replaced, and the vegetation along the side of the building was removed.

The board asked how the city staff had tried to communicate with the owner. Mr. Green replied that phone calls, emails, mail, and certified mail were used.

Mrs. Schroder asked how much the fines totaled and if any have been paid. Mr. Green said the fine was \$6,750.00 which is the maximum that can be assessed by the city. Nothing had been paid to date. The fines are not due until 30 days from the date of notice since the owner had not addressed the violations in the required timeframe.

Chairwoman Brinegar opened up the discussion to the property owner or their legal representative. It was noted that the owner was not present to speak. Mrs. Brinegar opened up public comment to any member of the audience.

Paula DeSalvo, 15 W Franklin Street explained that she owns the property next to the Dart property. They have had a recurring problem every year getting Mr. Dart to remove the vegetation between their buildings. She recounts the garage they built meeting strict zoning requirements while Mr. Dart has gravel for his parking area and keeps at least six vehicles including trailers on it making it look like it is zoned industrial. The neighboring property owners have done major work improving their properties and Mr. Dart has not taken care of his property in the many years that he has owned it. She opined that the Fire Inspector needs to make sure it is not a hazard.

Doug Johnson, 208 Pinegrove Drive, asked if the July 2nd letter to the owner was signed for by the recipient. Mr. Green has the signed receipt from the certified letter. Mr. Johnson opined that this has happened around the same timeframe as the city's new ordinance concerning demolition of structures. He asked if the taxes have been paid on the property. Mr. Green answered that they were current up to 2019. Mr. Johnson asked what happens if the owner brings it up to code and pays the fines. Mr. Green said that is what is required. Mr. Johnson tried to discuss his opinions on other city items and legislation but was told that this hearing was not the place for that conversation.

Dwight Bartlett, 3750 W Salinas Court, Sugarcreek, asked where this goes from this point. He explained that it is one of the oldest buildings in the area and no one is looking to have it torn down. He recounts that the city only has the ability to respond to complaints, not go out looking for violations. Mr. Middlestetter explained that this commission has a very limited scope of responsibility and the zoning laws are in place and need to be upheld.

Doug Johnson added that he has seen the plaque on the building from the Historical Society and asked if that board had a say in this process. Chairwoman Brinegar answered that in terms of the zoning violations, no other board has a say in this case.

Chairwoman Brinegar closed the public comments. She explained the factors that lead her to vote for sending this case for prosecution. The factors are the: sheer number of violations, lack of cooperation or communication from the owner, and the property's prominent location.

Mr. Ogrod agreed and added there is a history of these situations.

Mr. Middlestetter echoed all of those thoughts and added that a person cannot just ignore the law.

Mr. Burke opined that the lack of communication leaves this commission without options.

Mrs. Schroder added that it shows a lack of respect for the commission, the city, and the safety of the community.

Mr. Burke made a motion to send **PRC Case 19-02 7 W Franklin Street** to prosecution. Mr. Middlestetter seconded the motion. The roll was called. Mr. Burke, yes; Mr. Middlestetter, yes; Mr. Ogrod, yes; Mrs. Schroder, yes; Mrs. Brinegar, yes. The motion passed 5-0.

Mr. Green explained that he will now forward it to the prosecutor.

OLD BUSINESS:

Case PRC 19-01 2088 Dane Lane - sent to the prosecutor in July. The city has not heard back yet.

OPEN DISCUSSION:

Mr. Ogrod pointed out that the city newsletter has started updating the public with zoning information.

ADJOURNMENT:

There being no further business to discuss, Mr. Middlestetter made a motion to adjourn. With unanimous consent, the meeting adjourned at 7:04 PM.

Meredith Brinegar, Chairman

Date

Pamela Timmons, Secretary

Date



To: Board of Zoning Appeals
From: Jeff Green, Planning and Zoning Assistant
Date: November 14, 2019
Subject: Staff Report for BZA Case 19-04 – 1903 Sugar Maple Place

Summary of the Request

The property owner at 1903 Sugar Maple Place is requesting a variance to place a deck 15 feet into the required 50 foot rear yard setback. The property is located in the Highview Terrace Subdivision and is identified via parcel number: L35000100030011300.

Applicant Information

Owner: Kent and Terri Anderson
1903 Sugar Maple Place
Bellbrook, Ohio 45305

Applicant: Paul Struebel
3216 Lower Bellbrook Rd
Bellbrook, OH 45305

Current Zoning District

PD-1; Planned Development Residential

Parcel Identification

Parcel ID # L35000100030011300

Relevant Code – 17.05(9)

Setback and Screening:

A minimum setback of fifty (50) feet shall be provided along the entire perimeter of the development and retained in natural woods, or be suitably landscaped with grass and/or ground cover, shrubs and trees. Projects located adjacent to commercial or industrially zoned areas shall provide suitable screening to the residential development as adjudged by the

Planning Board. Screening shall not obscure traffic visibility within fifty (50) feet of an intersection.

Applicant's Reason for the Request

Per the application submitted, the property owners would like to have an extended deck on their property. Per staff's discussion with the applicant, the property owners want to have an elevated "deck in the trees" and would be a maximum of 26' above the finished grade.

Per the application submitted no change to the flow of water or the existing woods will be removed past the existing 50' setback. The applicant has advised that this proposal will not be a detriment to the surrounding property owners nor the developer. The applicant believes that the request fits in with the intent of the zoning code due to no changes occurring to the woods, drainage, or natural features within the 50' setback.

Surrounding Land Use within 1,000 Feet

The land surrounding the subject property is largely zoned as PD-1 (Planned Development Residential) with single family homes in the immediate vicinity of the property.



Similar Cases in the Past 5 years

BZA Case 18-02 – Variance granted for a deck built 14' in the required rear yard setback.

BZA Case 17-05 – Variance granted for a deck built 12' in the required rear yard setback.

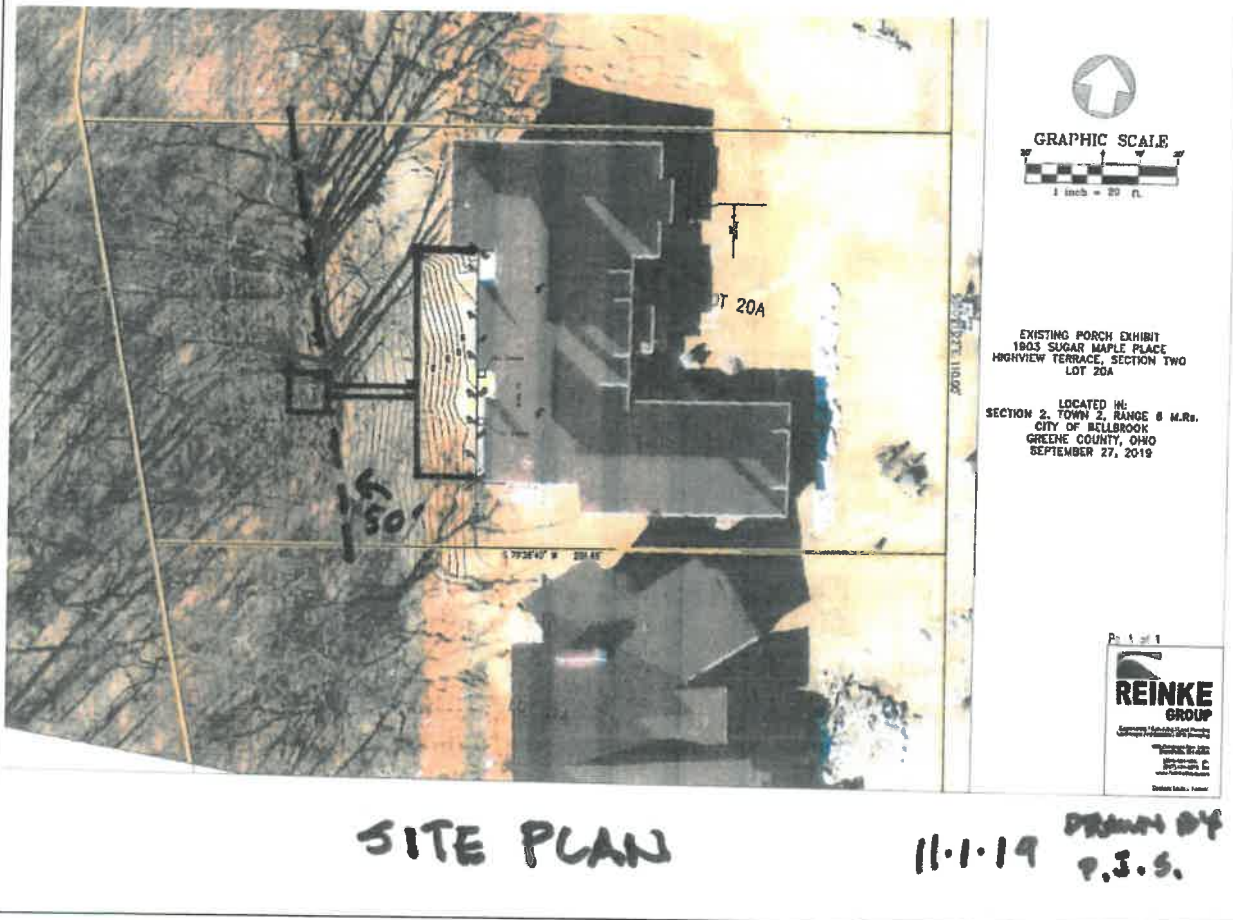
Flood Plain Information

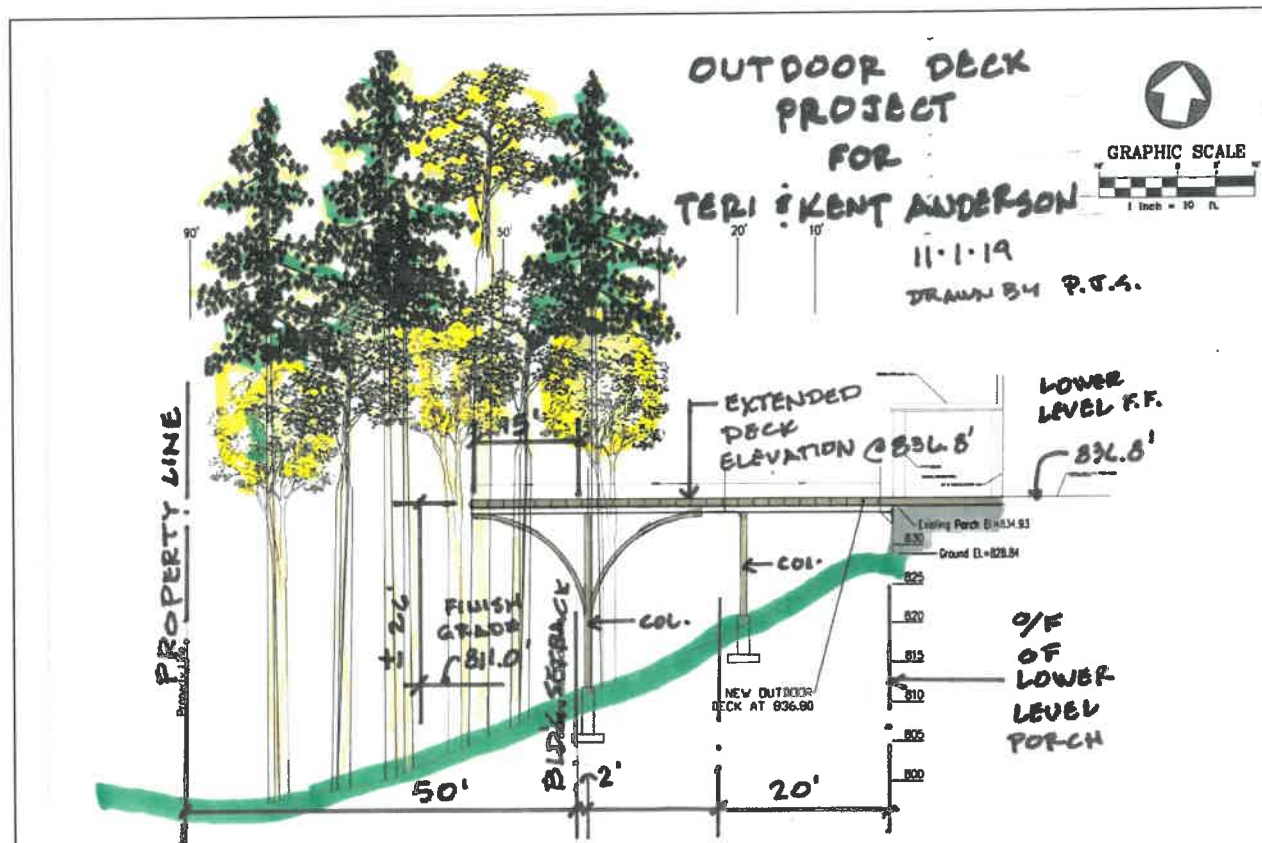
The property is not located within the flood plain

Comments from City and County Agencies

N/A

Supporting Maps & Graphics





Staff Recommendation

Staff recommends the variance be approved as submitted. The intent of the code as described in 17.05(9), is to ensure no structure is built within the setback and that the ground cover, shrubs, trees, etc. is retained. While the proposed structure does extend 15 feet into the required setbacks, no portion of the structure would remove vegetation or any supports be placed within the setback per the plans submitted. As such, staff believes that the intent of the code is met.



CITY OF BELLBROOK

APPLICATION FOR ZONING VARIANCE

15 EAST FRANKLIN STREET, BELLBROOK, OHIO 45305

(937) 848-4666 WWW.CITYOFBELLBROOK.ORG

APPLICANT INFORMATION

DATE RECEIVED 11/4/19 APPLICATION # V19-04
PROPERTY OWNER TEAL & KENT ANDERSON PHONE NUMBER 239-850-5792
OWNER ADDRESS 1903 SUGAR MAPLE PLACE BELLBROOK, OHIO 45305
APPLICANT NAME PAUL J. STRIEBEL PHONE NUMBER 937-466-2107
APPLICANT ADDRESS 3212 LOWER BELLBROOK, OHIO 45305

REQUEST INFORMATION

PROPERTY ADDRESS 1903 SUGAR MAPLE PLACE ZONING DISTRICT PD-1
SUBDIVISION _____ LOT NUMBER _____ PARCEL ID _____

DESCRIBE THE GENERAL NATURE OF THE VARIANCE _____

WE ARE REQUESTING A REAR YARD ADJUSTMENT
TO OUR EXISTING LOT

SEE THE REVERSE OF THIS PAGE FOR ADDITIONAL INFORMATION TO BE INCLUDED WITH AN APPLICATION FOR ZONING VARIANCE.

I UNDERSTAND THAT APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE APPROVAL FOR ANY ADMINISTRATIVE REVIEW, CONDITIONAL USE PERMIT, VARIANCE, OR EXCEPTION FROM ANY OTHER CITY REGULATIONS WHICH ARE NOT SPECIFICALLY THE SUBJECT OF THIS APPLICATION. I UNDERSTAND THAT APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE APPROVAL OF A BUILDING OCCUPANCY PERMIT. I UNDERSTAND FURTHER THAT I REMAIN RESPONSIBLE FOR SATISFYING REQUIREMENTS OF ANY PRIVATE RESTRICTIONS OR COVENANTS APPURTENANT TO THE PROPERTY.

I CERTIFY THAT I AM THE APPLICANT AND THAT THE INFORMATION SUBMITTED WITH THIS APPLICATION IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT THE CITY IS NOT RESPONSIBLE FOR INACCURACIES IN INFORMATION PRESENTED, AND THAT INACCURACIES MAY RESULT IN THE REVOCATION OF THIS ZONING CERTIFICATE AS DETERMINED BY THE CITY. I FURTHER CERTIFY THAT I AM THE OWNER OR PURCHASER (OR OPTION HOLDER) OF THE PROPERTY INVOLVED IN THIS APPLICATION, OR THE LESSEE OR AGENT FULLY AUTHORIZED BY THE OWNER TO MAKE THIS SUBMISSION.

I CERTIFY THAT STATEMENTS MADE TO ME ABOUT THE TIME IT TAKES TO REVIEW AND PROCESS THIS APPLICATION ARE GENERAL. I AM AWARE THAT THE CITY HAS ATTEMPTED TO REQUEST EVERYTHING NECESSARY FOR AN ACCURATE AND COMPLETE REVIEW OF MY PROPOSAL; HOWEVER, AFTER MY APPLICATION HAS BEEN SUBMITTED AND REVIEWED BY CITY STAFF, I UNDERSTAND IT MAY BE NECESSARY FOR THE CITY TO REQUEST ADDITIONAL INFORMATION AND CLARIFICATION.

I HEREBY CERTIFY, UNDER PENALTY OF PERJURY, THAT ALL THE INFORMATION PROVIDED ON THIS APPLICATION IS TRUE AND CORRECT.

APPLICANT SIGNATURE [Signature] DATE 10/31/19

OFFICE USE ONLY		
APPLICATION FEE	PAYMENT TYPE	REVIEW AUTHORITY
\$ <u>100.00</u>	CASH <input type="checkbox"/> CHECK <input checked="" type="checkbox"/> # <u>1695</u>	ADMINISTRATIVE, BOARD OF ZONING APPEALS
BOARD OF ZONING APPEALS	MEETING DATE <u>11/19/19</u>	APPROVED <input type="checkbox"/> DENIED <input type="checkbox"/> CONDITIONS <input type="checkbox"/>

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Paul J. Striebel and Associates, Inc.

P.O. Box 613

Bellbrook, Ohio 45305

City of Bellbrook

18 East Franklin Street

Bellbrook, Ohio 45305

ATT.: Mr. Jeff Green, Planning and Zoning Assistant

Re: Application for Zoning Variance, rear yard addition to an existing patio area located at Highview Terrace, Lot # 20A, the Anderson Residence, 1903 Sugar Maple Place, City of Bellbrook, Ohio 45305


Dear Jeff,

As the Architect of Record, and Applicant for the above mentioned project, I am writing to provide additional information which pertains to the Application for Zoning Variance dated 10-31-19. Shown below is the additional information.

- The rear yard of the property has been surveyed by a licensed surveyor, all of the rear yard grades have been verified by the surveyor as shown on the attachments.
- The proposed rear yard patio addition has been designed by a licensed Structural Engineer, and Architect. All parts of the project are compliant with the Greene County Building Services Department requirements, and shall have a approved building permit prior to commencement of construction.
- The Britt Tree Company, L.L.C., was retained by the property owner this last August, 2019. A visual examination of the existing trees located within the 50' rear yard easement, was performed by the company owner, Mr. Jim Britt. The property owner was informed, that the existing trees were healthy, and should "not" be affected by the proposed location for the rear yard outdoor deck addition. As a part of the project, the Britt Tree Company, L.L.C., shall remove all existing materials (foliage) which is located at the base of the existing trees.
- A licensed soils engineer has been involved with the design of the concrete foundation design for the project.
- The Developer for the project has issued to the Andersons, written positive comments regarding his approval of the project. The property owners located on Lot # 21A have also confirmed to the Andersons, that they have no problem with the proposed project design.

It has been my pleasure to work with you on this project. As the Applicant for the property owner, I look forward to meeting with the City of Bellbrook B.Z.A. members on 11-19-19.

Respectfully Submitted,



Paul J. Striebel, President

ATTACHMENT TO APPLICATION FOR ZONING VARIANCE

B. APPLICATION AND STANDARDS FOR VARIANCES (ZONING CODE 20.13.2)

A VARIANCE FROM THE TERMS OF THIS ORDINANCE SHALL NOT BE GRANTED BY THE BOARD OF ZONING APPEALS UNLESS AND UNTIL A WRITTEN APPLICATION FOR A VARIANCE IS SUBMITTED TO THE ZONING INSPECTOR AND THE BOARD OF ZONING APPEALS CONTAINING:

a) NAME, ADDRESS AND PHONE NUMBER OF APPLICANTS;

Andrew Ken Anderson III and Theresa Luna Anderson
1903 Sugar Maple Place, Bellbrook, Ohio
(239)850-5792

b) LEGAL DESCRIPTION OF PROPERTY; AND A SITE PLAN BASED ON AN ACCURATE SURVEY SHOWING EXISTING AND/OR FUTURE BUILDING LOCATIONS AND THE LOCATIONS OF BUILDINGS ON ADJACENT PROPERTIES. THIS SITE PLAN SHOULD BE PREPARED BY A REGISTERED SURVEYOR ATTESTING TO THE ACCURACY OF SAME;

Situate in the City of Bellbrook, Greene County, Ohio, and being Lot 20A of Highview Terrace, Section Two, as shown on the Record Plan recorded at Plat Cabinet 38, Pages 161A & 161B, Greene County records.
Auditors Parcel No. L35-0001-0003-0-0113-00

Site plan is attached.

c) DESCRIPTION OF NATURE OF VARIANCE REQUESTED;

This Application is made by the owners of their residence located at 1903 Sugar Maple Place and concerns their request for approval of the proposed addition extending the existing deck, being an open platform projecting from the rear wall of Applicant's residence supported by structural pillars at grade. The zoning district permits one family dwellings such as Applicant's residence without restriction for a deck which is attached to the residence, and is not considered an accessory use. The property is located in an PD-1 Planned Residential District, within Highview Terrace Subdivision, Section Two Replat. The Bellbrook Zoning Code, Article 17, Section 17.05(9) provides for a minimum setback of fifty (50) feet, and this setback is shown on the Record Plan and is co-extensive with a landscape and drainage easement.

The proposed deck extension, shown on the preliminary drawings of the owners architect, will extend laterally from the rear of the porch with an elevation above the ground supported by cantilevered supports which have foundations which are not within the Setback area and Drainage Easement. As designed, no physical building or structure will be located in the Setback area and Drainage Easement, and no obstruction of the flow of surface water will be caused by the deck addition. The existing natural woods, landscaping, shrubs and trees in the setback area and landscape and drainage area will not be affected or altered by the proposed deck.

However, the deck will extend horizontally, in space, at a height of approximately 27 feet above grade (the surface of the deck) and approximately 15 feet into the 20 foot setback area.

The owners, their architect, engineer and contractor assert that the proposed deck extension, by reason of its design, will not be located on the drainage easement, and will not be an obstruction to the free flow of water within the drainage easement. In discussions with the City Planner, the owners are following the recommendation that they submit this application for a variance of the strict application of the setback provided by the Bellbrook Zoning Code, Article 17, Section 17.05(9).

- d) VARIANCES FROM THE TERMS OF THE ZONING ORDINANCE SHALL BE GRANTED ONLY WHERE THE PROPERTY OWNER SHOWS THAT THE APPLICATION OF A ZONING REQUIREMENT TO THE PROPERTY IS INEQUITABLE CAUSING THE PROPERTY OWNER PRACTICAL DIFFICULTIES IN THE USE OF THE PROPERTY.

FACTORS TO CONSIDER INCLUDE, BUT ARE NOT LIMITED TO:

- 1) WHETHER THE PROPERTY IN QUESTION WILL YIELD A REASONABLE RETURN OR WHETHER THERE CAN BE ANY BENEFICIAL USE OF THE PROPERTY WITHOUT THE VARIANCE;
The property is owners residence.

- 2) WHETHER THE VARIANCE IS SUBSTANTIAL;

The variance is minimal and not substantial, as it will not impact the 50 foot setback requirement due to the fact that the deck addition will only extend into the setback at a height of 27 feet above ground and therefore no part of the deck will be located within the setback area on the ground.

- 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;

The variance will have no effect upon neighboring owners and will not alter the character of the neighborhood.

- 4) WHETHER THE VARIANCE WOULD ADVERSELY AFFECT THE DELIVERY OF GOVERNMENTAL SERVICES SUCH AS WATER, SANITARY SEWER OR GARBAGE REMOVAL;

The variance will have no effect upon delivery of governmental services.

- 5) WHETHER THE PROPERTY OWNER PURCHASED THE PROPERTY WITH KNOWLEDGE OF THE ZONING RESTRICTION;

The property owners anticipated having a deck constructed as part of the original home design but factors involving the builder caused an alteration of the plans.

- 6) WHETHER THE PROPERTY OWNER'S PREDICAMENT FEASIBLY CAN BE OBIATED THROUGH SOME METHOD OTHER THAN A VARIANCE; AND

The variance as requested, is the only method by which the deck can be constructed per the plans.

- 7) WHETHER THE SPIRIT AND INTENT BEHIND THE ZONING REQUIREMENT WOULD BE OBSERVED AND SUBSTANTIAL JUSTICE DONE BY GRANTING THE VARIANCE.

The spirit and intent of the zoning requirement of Article 17, Section 17.05(9) will be observed by the granting of this variance because the approval of the variance

will not adversely affect the perimeter of the development which is retained in natural woods and other natural features in their natural state nor will it affect the drainage design of the development.



To: Board of Zoning Appeals
From: Jeff Green, Planning and Zoning Assistant
Date: November 14, 2019
Subject: Staff Report for BZA Case 19-05 – 22 E Franklin Street Bellbrook OH

Summary of the Request

The property owner at 22 S Franklin Street is requesting a variance to place a deck 44 square foot sign flat sign where such a sign is only permitted to be 40 square feet in size. The property is located in the Downtown Bellbrook and is identified via parcel number: L35000100060010600.

Applicant Information

Owner: Thomas and Grushon Insurance
22 E Franklin Street
Bellbrook, Ohio 45305

Applicant: Thomas and Grushon Insurance
22 E Franklin Street
Bellbrook, Ohio 45305

Current Zoning District

B-4; Central Business District

Parcel Identification

Parcel ID # L35000100060010600

Relevant Code – 18.20B(4)(a)(2)

Flat:

No sign attached flat against the face of a building or painted thereon, shall be larger than forty (40) square feet and shall not extend more than twelve (12) inches from the building face.

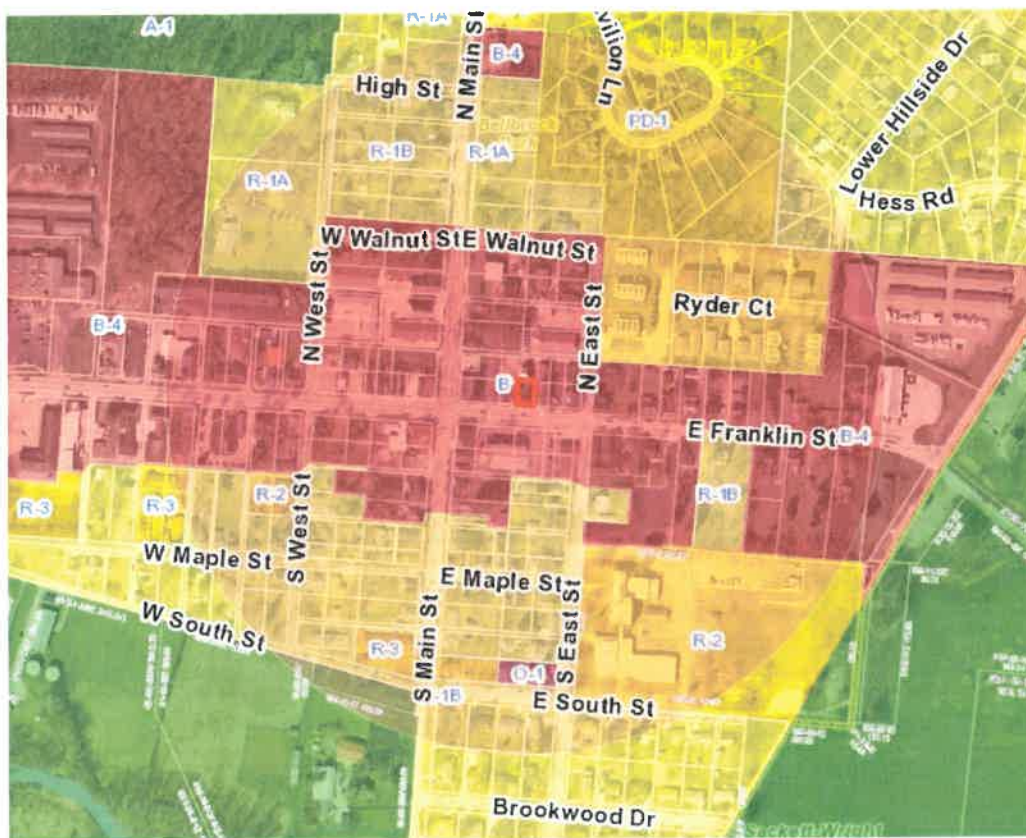
Applicant's Reason for the Request

Per the application submitted, the applicant is requesting that the proposed flat sign is permitted to have 4 additional square feet more than what the code allows for. On November 7th, 2019; the Bellbrook Village Review Board voted to approve the design and placement of the sign.

Per the application submitted, the applicant states that if strict interpretation of the code were to be followed, then 4 square feet would need to be taken from the sign creating a "border" that would have a negative effect on the appearance of the building. The applicant believes that the spirit and intent of the ordinance would be observed and would not create harm in the neighborhood or surrounding properties if the variance were to be approved.

Surrounding Land Use within 1,000 Feet

The land surrounding the subject property is largely zoned as B-4 (Central Business District) with single family/multi-family residential also being in the immediate area.



Similar Cases in the Past 5 years

BZA Case 16-01 – Variance granted for a ground sign height (12') and size (48 sq ft)

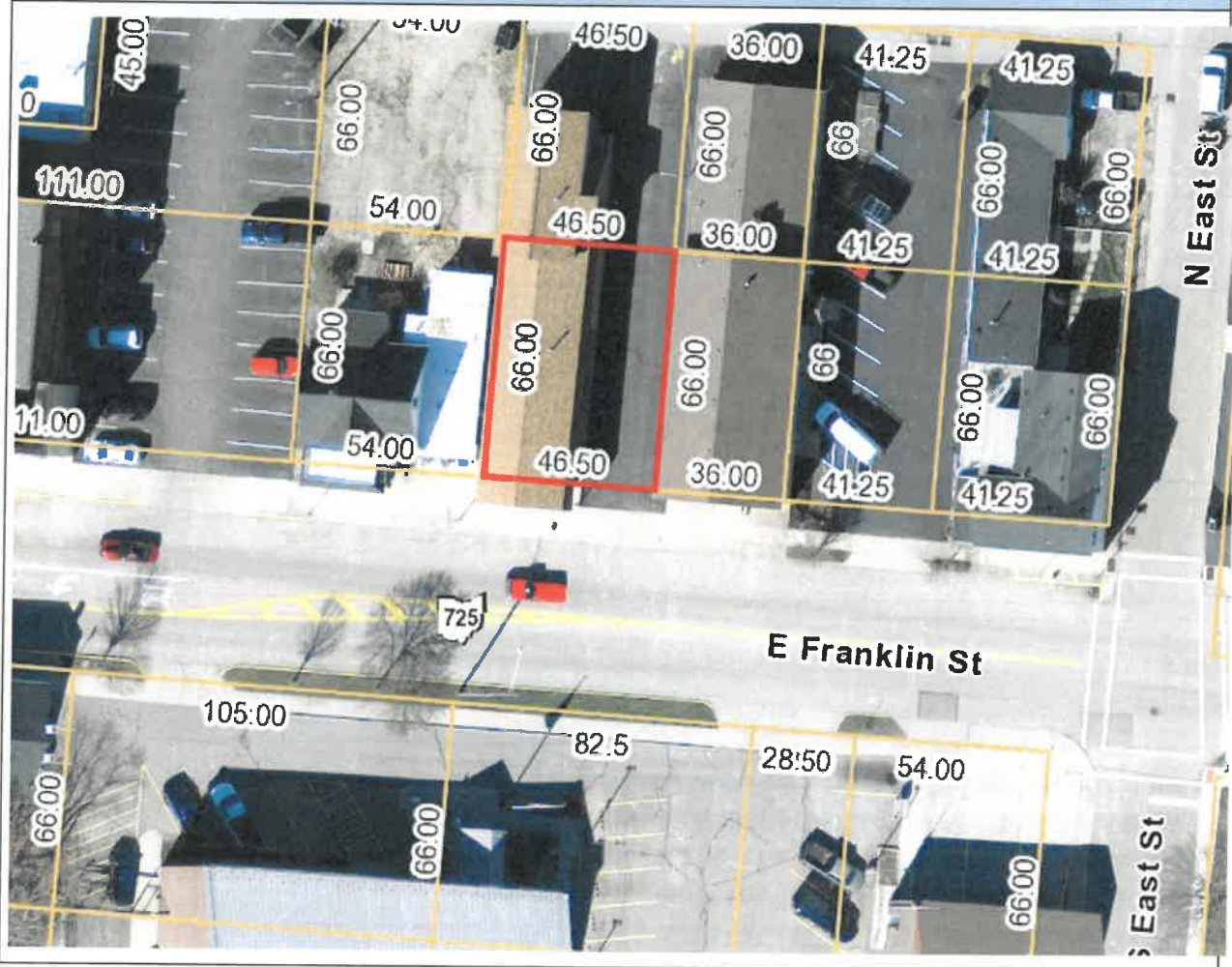
Flood Plain Information

The property is not located within the flood plain

Comments from City and County Agencies

Village Review Board – Approved on November 7, 2019

Supporting Maps & Graphics



Window Sign 99" x 64"



Staff Recommendation

Staff recommends the variance be approved as submitted. The intent of the code is to limit sign size so it doesn't overwhelm or detract from a building or neighboring properties. Staff believes that due to the placement and size of the window, a hardship is created where a flat sign cannot be reasonably placed along the street at eye level.



CITY OF BELLBROOK

APPLICATION FOR ZONING VARIANCE

15 EAST FRANKLIN STREET, BELLBROOK, OHIO 45305

(937) 848-4666 WWW.CITYOFBELLBROOK.ORG

APPLICANT INFORMATION

DATE RECEIVED 11 / 08 / 19

APPLICATION # 19-05

PROPERTY OWNER Thomas and Grushon Insurance

PHONE NUMBER (937) 848-6181

OWNER ADDRESS 22 E. Franklin St Bellbrook, OH 45305

APPLICANT NAME Thomas and Grushon Insurance

PHONE NUMBER (937) 848-6181

APPLICANT ADDRESS 22 E. Franklin St Bellbrook, OH 45305

REQUEST INFORMATION

PROPERTY ADDRESS 22 E. Franklin St Bellbrook, OH 45305

ZONING DISTRICT B2A B4

SUBDIVISION _____

LOT NUMBER _____

PARCEL ID _____

DESCRIBE THE GENERAL NATURE OF THE VARIANCE

Requesting 4 square ft variance of sign size
to allow sign to fully fill window space

SEE THE REVERSE OF THIS PAGE FOR ADDITIONAL INFORMATION TO BE INCLUDED WITH AN APPLICATION FOR ZONING VARIANCE.

I UNDERSTAND THAT APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE APPROVAL FOR ANY ADMINISTRATIVE REVIEW, CONDITIONAL USE PERMIT, VARIANCE, OR EXCEPTION FROM ANY OTHER CITY REGULATIONS WHICH ARE NOT SPECIFICALLY THE SUBJECT OF THIS APPLICATION. I UNDERSTAND THAT APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE APPROVAL OF A BUILDING OCCUPANCY PERMIT. I UNDERSTAND FURTHER THAT I REMAIN RESPONSIBLE FOR SATISFYING REQUIREMENTS OF ANY PRIVATE RESTRICTIONS OR COVENANTS APPURTENANT TO THE PROPERTY.

I CERTIFY THAT I AM THE APPLICANT AND THAT THE INFORMATION SUBMITTED WITH THIS APPLICATION IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT THE CITY IS NOT RESPONSIBLE FOR INACCURACIES IN INFORMATION PRESENTED, AND THAT INACCURACIES MAY RESULT IN THE REVOCATION OF THIS ZONING CERTIFICATE AS DETERMINED BY THE CITY. I FURTHER CERTIFY THAT I AM THE OWNER OR PURCHASER (OR OPTION HOLDER) OF THE PROPERTY INVOLVED IN THIS APPLICATION, OR THE LESSEE OR AGENT FULLY AUTHORIZED BY THE OWNER TO MAKE THIS SUBMISSION.

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I HEREBY CERTIFY, UNDER PENALTY OF PERJURY, THAT ALL THE INFORMATION PROVIDED ON THIS APPLICATION IS TRUE AND CORRECT.

APPLICANT SIGNATURE _____

DATE 11 / 08 / 19

OFFICE USE ONLY

APPLICATION FEE	PAYMENT TYPE	REVIEW AUTHORITY
\$ 100.00	CASH <input type="checkbox"/> CHECK <input checked="" type="checkbox"/> # <u>05196</u>	ADMINISTRATIVE, BOARD OF ZONING APPEALS
BOARD OF ZONING APPEALS	MEETING DATE <u>11 / 19 / 19</u>	APPROVED <input type="checkbox"/> DENIED <input type="checkbox"/> CONDITIONS <input type="checkbox"/>

1) WHETHER THE PROPERTY IN QUESTION WILL YIELD A REASONABLE RETURN OR WHETHER THERE CAN BE ANY BENEFICIAL USE OF THE PROPERTY WITHOUT THE VARIANCE;

The variance would not affect the use of the property.

2) WHETHER THE VARIANCE IS SUBSTANTIAL;

The variance is only allowing 4 additional square feet (10% over) of signage.

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;

The variance will not harm the neighborhood or any other business at all.

4) WHETHER THE VARIANCE WOULD ADVERSELY AFFECT THE DELIVERY OF GOVERNMENTAL SERVICES SUCH AS WATER, SANITARY SEWER OR GARBAGE REMOVAL;

The variance will not affect any governmental services.

5) WHETHER THE PROPERTY OWNER PURCHASED THE PROPERTY WITH KNOWLEDGE OF THE ZONING RESTRICTION;

The restriction was not known

6) WHETHER THE PROPERTY OWNER'S PREDICAMENT FEASIBLY CAN BE OBIATED THROUGH SOME METHOD OTHER THAN A VARIANCE; AND

A Variance is not the only option, but is the most mutually beneficial.

7) WHETHER THE SPIRIT AND INTENT BEHIND THE ZONING REQUIREMENT WOULD BE OBSERVED AND SUBSTANTIAL JUSTICE DONE BY GRANTING THE VARIANCE. THE BOARD SHALL DETERMINE, AFTER AND WEIGHING THE FACTORS DESCRIBED ABOVE AND ANY OTHER FACTORS THE BOARD DEEMS RELEVANT, WHETHER THE PROPERTY OWNER HAS SHOWN PRACTICAL DIFFICULTIES SO INEQUITABLE AS TO JUSTIFY GRANTING A VARIANCE TO THE PROPERTY OWNER.

If the full extent of the zoning requirement were observed there would be a boarder around the sign in the window and likely have a negative affect on the appearance of the building.



To: Property Review Commission
From: Jeff Green, Planning and Zoning Assistant
Date: November 14, 2019
Subject: Staff Report for BZA Case 19-02 – 7 W Franklin St

Summary of the Request

This is a request by the City of Bellbrook to forward the case dealing with 7 W Franklin Street for prosecution. The property in question is located at 7 W Franklin Street, Bellbrook OH, 45305. As of 11/1/2019, 25 property maintenance and zoning violations exist on the property.

Applicant Information

Property Location:
7 W Franklin St
Bellbrook, Ohio 45305

Property Owner: Greg L Dart
74 E Franklin St
Bellbrook, OH 45305

Current Zoning District

B-4, Central Business District

Parcel Identification

Parcel ID # L35000100020007300 and L35000100020000400

Property Maintenance/Zoning Issues

The property currently has 25 property maintenance issues. Please see the attached "breakdown of violations" located for the property along with pictures and the property maintenance/zoning code

Applicant's Reason for the Request

This is a request by the city to forward the case for prosecution for numerous violation and maintenance issues. The city contacted Mr. Dart in via phone May 2019 and informed him that the city would begin performing code enforcement downtown to prepare it for revitalization efforts and that his building had some issues that would need attention. A letter was sent to Mr. Dart dated May 22, 2019 informing him of 29 property maintenance and zoning issues found on the property with the city requesting a realistic time frame to bring the property up to code by no later than June 24, 2019.

By the beginning of July no work had appeared to have been performed on the stated issues nor had any timeframe or communication been received by Mr. Dart. On July 2, 2019 the city sent Mr. Dart a formal violation again stating the violations found on the property and gave him until July 26, 2019 to abate the issues. A follow up inspection was conducted on July 29, 2019; 26 of the 29 violations are remaining. On August 7th, Mr. Dart was sent fines and a notification stating that a PRC meeting would be scheduled for August 20, 2019.

It should be noted that further work appears to be occurring currently (as of Nov 14th) on the building. As such, other violations may be abated by the time of the hearing on November 19th. Please see the history below for staff's actions in regards to the property.

History of 7 W Franklin Street from May 2019 through Present

8/27/18 City Manager initiated a meeting with Greg Dart to discuss his building and his plans. They met for two hours. Mr. Dart stated that he was out of space and going to move his items in the building out soon. Did not occur as of the last update to this timeline - 11/4/19

4/11/19 Worked with Dwight Barlett to create and install photo banners in windows. Dart and Barlett wanted City to pay for all and we agreed to pay for half - \$70.

5/10/19 Called Mr. Dart regarding focus on downtown properties. Specifically advised Mr. Dart regarding 7 W Franklin being in need of repair. Mr. Dart advised that he has plans to work on the building, starting with cleaning it out. I informed Mr. Dart, that the violations are principally regarding the exterior of the building which is what will need to be prioritized. I informed Mr. Dart that I would be sending a letter in the near future listing violations on site from a property maintenance standpoint.

5/22/19 Conducted an extensive review of the property. Property has multiple property

maintenance violations on all sides and will require extensive work. Informal violation letter sent listing all violations and asking for a timeframe to begin and finish work on the building. Sent via certified and regular mail. **Signed certified mail received by city 6/3/19.** No response received.

7/2/19 No response from the property owner and no work had been done on the building. Formal violation letter sent certified and regular mail along with penalties and right to appeal outlined. All issues needed to be resolved by 7/26/19 in order to avoid penalty. **Signed certified mail signed for on 7/5/19 and received by city 7/8/19.** No response received.

7/29/19 Time frame to abate issues passed as of 7/26/19. Review of property and pictures taken. Some work appears to have been done: shingles in awning have been painted, trim in rear of building up, soffit was attempted to be placed but looks to have fallen. Majority of building still requires work. Invoice will be sent for lack of work on other issues.

8/7/19 Letter sent to Mr. Dart along advising of a PRC meeting regarding his property along with invoice via certified and regular mail. **Certified mail signed for on 8/28/19 and received by city 8/28/19.** No response received.

8/20/19 PRC meeting date, Mr. Dart (or representative) not in attendance. PRC advised property should be sent to prosecution.

9/6/19 Received notification from Mr. Dart's Attorney asking for an appeal or rehearing of PRC meeting as Mr. Dart claims the meeting occurred without his knowledge. An appeal, per the code (1450.16) is not possible as the request to appeal would need to be submitted within 20 days of the order which was 7/2/19. As a result of this conversation, staff decided to allow a rehearing at PRC which was set for October 8th.

10/2/19 Met with Mr. Dart's Attorney regarding case. Cheri Hathaway, David Buccalo and Forrest Greenwood also attended at the request of Dart/Buccalo. They requested an additional month to get case together and to do further work which was accepted.

10/3/19 Staff pushed meeting date back to November as per applicant's request. Mr. Dart's Attorney was advised of postponement of meeting in addition to the likely date of the next PRC meeting (Nov 19th).

10/31/19 City Manager emailed Greg Dart requesting to have coffee to talk about how we can

work together. No response as of 11/4/19.

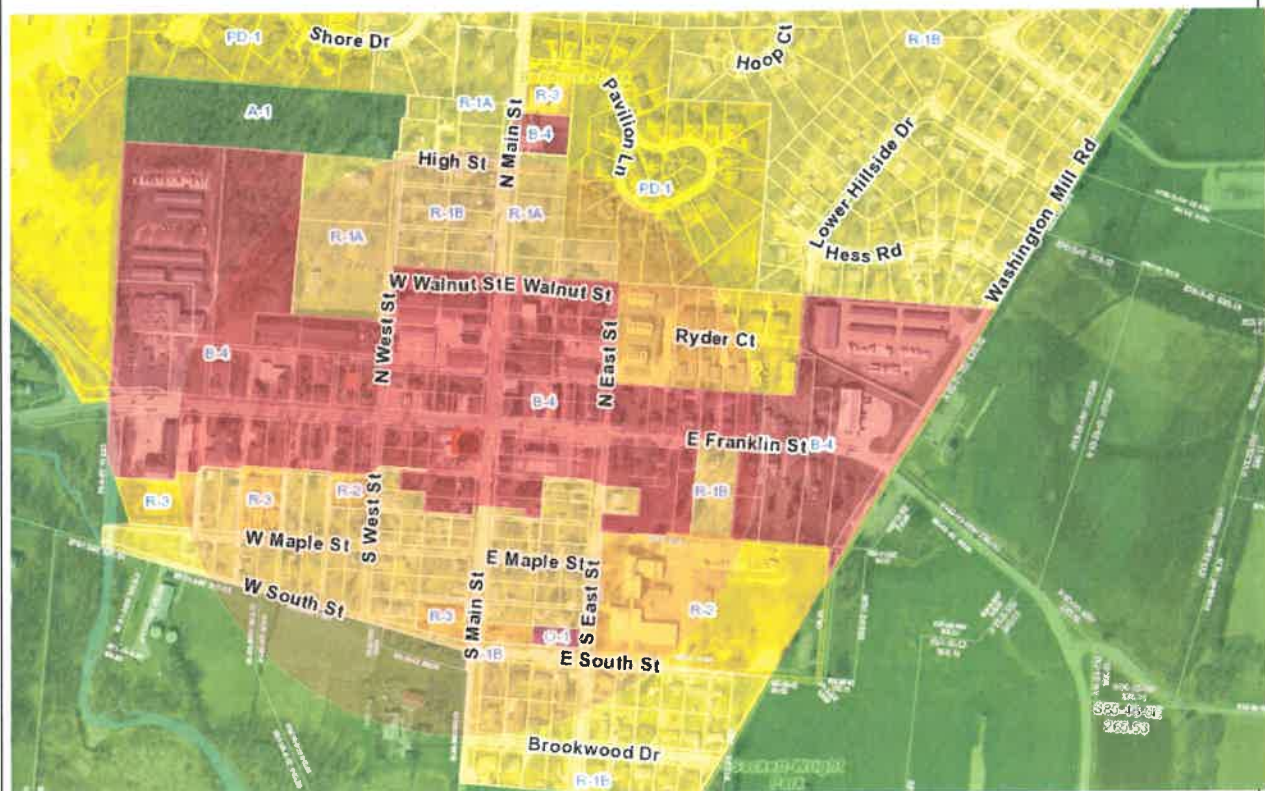
11/4/19 Notices for 11/19 meeting were sent out (5 days in advance of the required notice time frame)

*Aside from the initial call on 5/10/19 initiated by the city, no calls/letters/emails have been received from Mr. Dart directly. The next point of contact came on 9/6/19 from Mr. Dart's attorney. Note any letter sent certified to Mr. Dart regarding the property was also sent via regular mail as well. All instances of certified mail being sent to the property owner were signed as received.

As indicated in the history above, staff first informally advised Mr. Dart of violations on his property. As little to no work appeared to have occurred and no communication was received to have the issues with the property abated, a certified violation letter was sent that complied with all requirements listed via section 1450.11(c). Like the first letter, no communication was received nor did any work appear to be done within the timeframe of the violation. As per section 1450.03 (attached), the code official has requested that the property review commission review the case.

Surrounding Land Use within 1,000 Feet

The land surrounding the subject property is zoned as B-4 Central Business District. Outside of W Franklin Street, the land predominantly becomes single or multifamily residential.

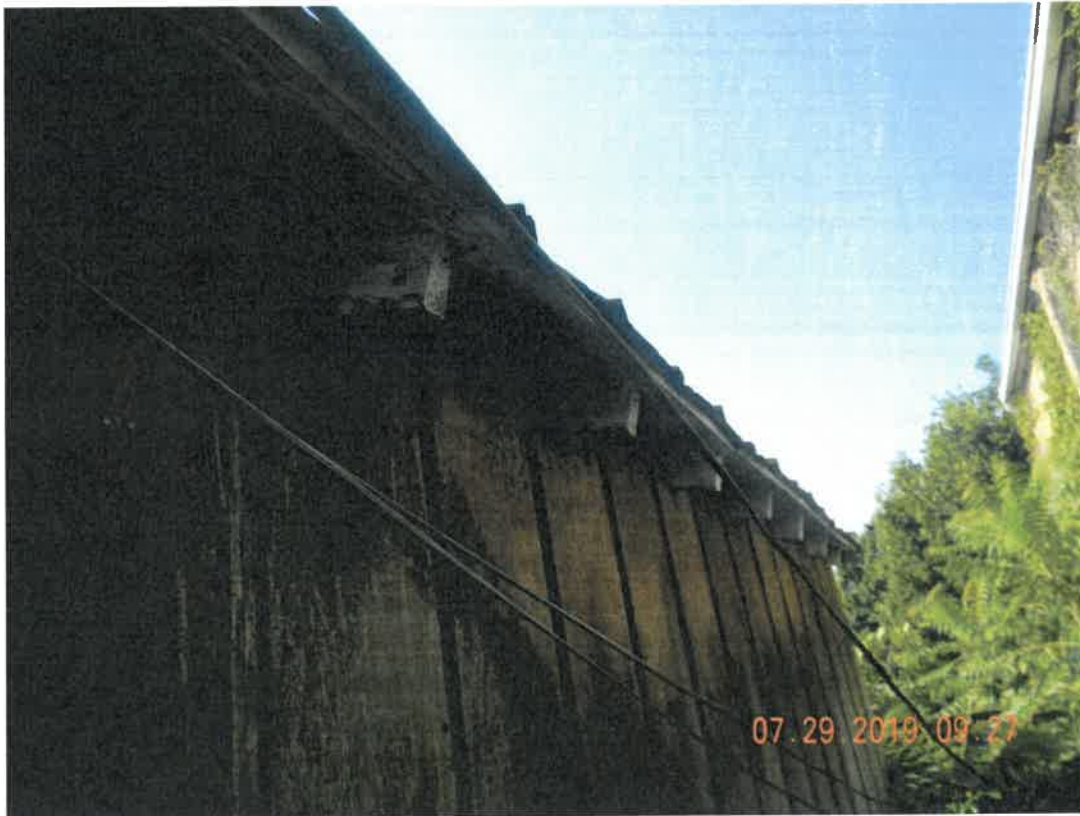


Previous Violations

Jun 2011: Violations for inoperable vehicle, vegetation, and broken window;
July 2014: Violations for outside storage and sanitation (went before PRC)
May 2018: Violation for vegetation

Supporting Maps & Graphics



































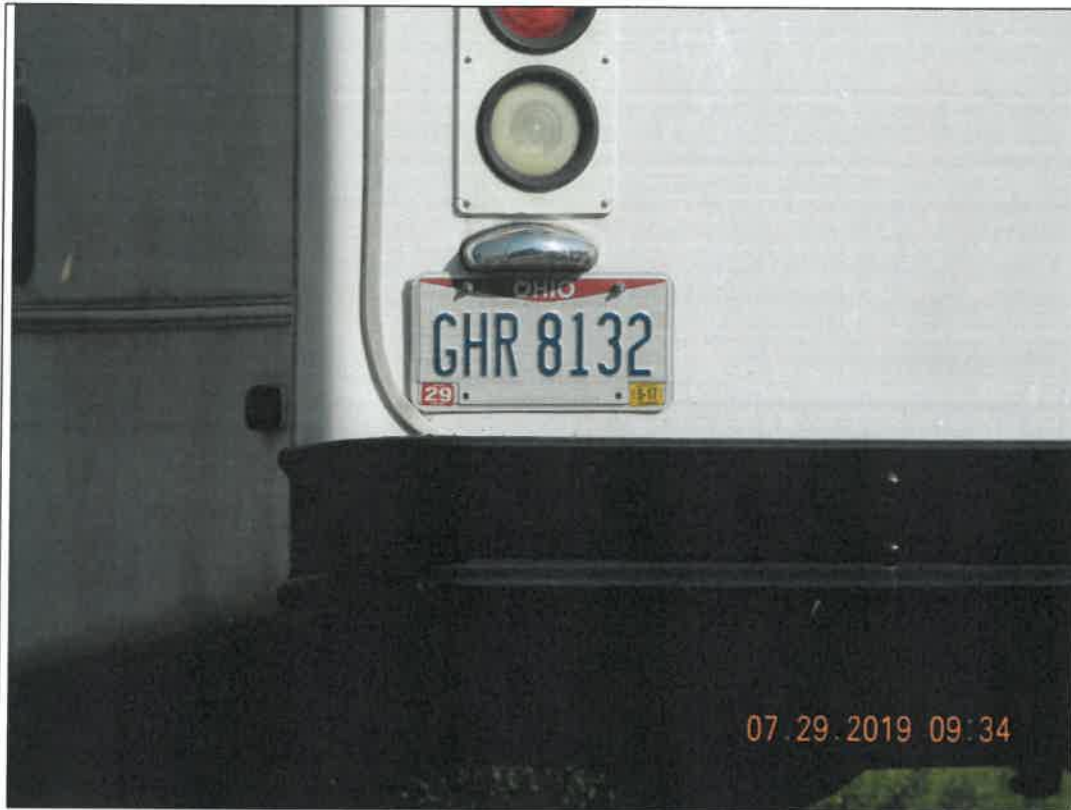


















07 29 2019 09 35



07 29 2019 09 35





required for compliance with this Code shall be executed and installed in a workmanlike and acceptable manner and installed in accordance with the manufacturer's installation instructions.

(h) Severability. If any section, subsection, paragraph, sentence, clause or phrase in this Code shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Code which shall continue in full force and effect, and to this end the provisions of this Code are hereby declared to be severable.

(i) Saving Clause. This Code shall not affect violations of any other ordinance, code or regulation existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

(j) Requirements Not Covered by Code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this Code, shall be determined by the Code Official.

1450.03 BELLBROOK PROPERTY REVIEW COMMISSION (BPRC).

(a) Establishment. In order to execute the purposes declared in this Code, there is hereby created a commission to be called the Bellbrook Property Review Commission (BPRC). The duties and responsibilities of the BPRC are hereby assigned to the Bellbrook Zoning Appeals Board.

(b) Duties of the BPRC.

1. Review suspected violations. The BPRC may, at the request of the Code Official, review any suspected violations of this Code and submit a written recommendation to the Code Official.
2. Review violation orders. When the Code Official requests prosecution of a violation order, the BPRC shall review that violation order. If the Code Official finds that an emergency exists under the provisions of this Code, he or she may request prosecution of that violation order without the review of that violation order by the BPRC. However, the Code Official shall notify the BPRC of the emergency action taken.
3. Hear appeals. The BPRC shall serve as the Code Appeals Board.
4. Hiring of a consultant. The BPRC, with the approval of the City Manager or Council, may, in special instances, temporarily retain the services of a consultant to assist the BPRC in performing its duties.
5. Additional powers. The BPRC shall have all additional powers granted by Council.
6. Conflicts of interest. No member of the BPRC shall vote or participate in the discussion of any question before the BPRC in which he or she has a personal or pecuniary interest.
7. Compensation. Members of the BPRC shall serve without compensation.

(c) Appeal of BPRC Action. Any person, firm or corporation, or any officer, department,

owner's agent, describing the change in work and the reasons and jurisdiction for the change, and shall be filed with the permit for the project.

(f) **Notices and Orders.** The Code Official shall issue all necessary notices and orders to ensure compliance with the requirements of this Code for the safety, health and general welfare of the public.

(g) **Official Records.** An official record shall be kept of all business and activities of the department specified in the provisions of this Code, and all such records shall be open to public inspection at all appropriate times and under reasonable regulations established by the Code Official to maintain the integrity and security of such records.

(h) **Right of Entry.** Where it is necessary to make an inspection to enforce the provisions of this Code, or whenever the Code Official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this Code, the Code Official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this Code, provided that if such structure or premises is occupied the Code Official shall present identification to the occupant and request entry. If such structure or premises is unoccupied, the Code Official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Code Official shall have recourse to the remedies provided by law to secure entry.

1450.11 NOTICES AND ORDERS.

(a) **Informal Resolution of Violation.** The Code Official may, at his or her discretion, attempt to informally resolve violations or suspected violations of this Code without issuing the notices and orders in the manner prescribed below. The Code Official shall be encouraged to utilize this procedure to the extent practical to achieve compliance with this Code.

(b) **Formal Resolution of Violations; Notice.**

1. When the Code Official is unsuccessful in achieving compliance with this Code using the informal procedure prescribed above, or, at his or her discretion, does not utilize the informal procedure described above, then the Code Official shall utilize the following formal procedure to resolve a violation or suspected violation of this Code.
2. Whenever the Code Official determines that there has been a violation of this Code or has reasonable grounds to believe that a violation has occurred, or whenever the Code Official has condemned any structure or equipment under the provisions of this Code, notice shall be given to the owner or the person or persons responsible therefor in the manner prescribed below. If the Code Official has condemned the property or part thereof, the Code Official shall give notice to the owner and to the occupants of the intent to placard and to vacate the property or to order equipment out of service.

(c) **Form of Notice.** Such notice prescribed above shall:

1. Be in writing;
2. Include a description of the real estate sufficient for identification;

3. Include a statement of the reason or reasons why it is being issued;
4. Include a correction order allowing a reasonable time for the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this Code; and
5. Inform the property owner of the right to appeal to the Bellbrook Property Review Commission. If a property owner desires such an appeal, a notice of appeal must be filed with the Code Official within twenty (20) days from receipt of the notice.
6. When applicable, include a statement of the right to file a lien.

(d) Method of Service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

(e) Service on Occupant. When a condemnation order is served on an occupant other than the owner or person responsible for compliance, a reasonable time to vacate the property after noncompliance shall be stated. Owners or persons responsible for compliance must vacate at the time set for correction of defects if there is failure of compliance.

(f) Penalties. Penalties for noncompliance with orders and notices shall be as set forth in this Code.

(g) Transfer of Ownership. No owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served, shall sell, transfer, mortgage, lease or otherwise dispose of the property to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the Code Official and shall furnish to the Code Official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

1450.12 MINOR NUISANCES

(a) General. A minor nuisance exists when a property is in violation of any regulations of this Code, unless the condition of the property has deteriorated to such a condition that enforcement under Sections 1450.13, 1450.14 or 1450.15 are determined more appropriate.

(b) Notice. Whenever the Code Official has determined a violation of the property maintenance standards set forth in this Code exists, and such conditions, as they exist endanger public health, welfare, or safety, or materially interfere with the peaceful enjoyment of the occupants of such property or the owner or occupants of adjacent property, the Code Official shall issue a notice according to Section 1450.11.

Property Maintenance/Zoning Code Violations for 7 W Franklin Street

Violations

- 1) *Construction Equipment (1450.31(m))* – The construction dumpster located at the rear of the property must be removed. A dumpster is permitted on-site but it must have a tight-fitted lid.
- 2) *Outside Storage (1450.31(j))* – The materials being stored in the rear and side of the property must be removed and placed in an enclosed structure or screened from public view.
- 3) *Sidewalk and Driveways (1450.31(c))* – Portions of the sidewalk are becoming cracked and uneven. These portions of sidewalk must be repaired and placed within safe condition.
- 4) *Protective Treatment (1450.32(b))* –
 - a. **Roof** – The roof has significant oxidation (rusting). Remove the rust from the roof and apply a coat of a preventative material to prevent any further rusting. Any damaged portions of roof must be repaired.
 - b. **Wall** – The metal wall, as seen in the rear/side of the building, is beginning to rust. Remove the rust and apply a coat of preventative material to prevent further rusting. Replace any damaged material as needed.
 - c. **Windows** – The windows (and the frames) around the building have peeled paint or rust forming on them. Remove the rust/peeled paint and apply new paint/protective material to further prevent deterioration.
 - d. **Garage Door Frame** – Peeling paint is above the garage door frame. Remove the peeled/flaking paint and apply new paint to prevent further deterioration.
 - e. **Wooden Shingles** – The wooden shingles located along W Franklin St need cleaned and a coat of weatherproofed material applied to prevent further deterioration. In addition at both ends of the wood shingles a cover or cap needs to be installed to prevent further erosion.
 - f. **Wooden siding**– The wooden siding/support between the properties 7 and 15 W Franklin needs to be replaced or (if possible) treated to prevent further deterioration with paint or another weatherproofing material.
 - g. **Door Frame** – The frame of the door to the rear of the building is in need of repair and protective treatment/paint applied.
 - h. **Loudspeaker** – The loudspeaker along the front of the building needs to have the rust removed and protective treatment applied to prevent further deterioration.
- 5) *Street Number (1450.32(c))* – Currently, no street number exists that is easily observed from the public way. Place a street number on the building along W Franklin Street that can be easily observed from the right-of-way.

6) *Roofs and Drainage (1450.32(g))* –

- a. The portion of the building facing S Main St has stains on the stone and rust running down the side of the building. Fix the gutters/roof to prevent further leakage and remove the stains and oxidation from the side of the building.
- b. The downspout along S Main Street (near the intersection of S Main and W Franklin) partially is emptying out into the sidewalk. Fully cover the downspout so no further water moves onto the public sidewalk and lower part of the building.

7) *Foundation walls (1450.32(e))* – There are several instances of cracks and breaks along the foundational walls. These cracks occur both along W Franklin St. and S Main St. These breaks and cracks must be fixed.

8) *Exterior Walls (1450.32(f))* –

- a. **Siding** - There are several portions of the building that has missing or damaged siding. Install new siding to the affected areas and remove the damaged portions.
- b. **Eaves and fascia** – The Eaves/fascia of the building are in need of repair and protective treatment applied.
- c. **Retaining Wall** – The retaining wall on your property has deteriorated to the point that a large chunk has fallen off. Remove the chunk that fell off from the property and repair the retaining wall.

9) *Decorative Features (1450.32(h))* – The flower holders, and other decorative features, must be sanded and repainted in a weatherproof paint to prevent further deterioration.

10) *Handrails and Guards (1450.32(l))*- The handrail along South Main St. must be firmly fastened with the rust removed and weatherproofing material applied to prevent further deterioration.

11) *Window, Skylight and Door Frames (1450.32(m))* -

- a. **Door**- The front door along W Franklin St must be repaired and repainted to prevent deterioration and weathertight.
- b. **Window** – the window in the rear of the building must be repaired/replaced

12) *Motor vehicles (1450.31(h))* – The bus parked in the rear does not have up-to-date registrations. Remove the vehicle from the property or put proper registration on it.

13) *Unsafe Equipment(1450.13(a)(2))* – Electrical Outlets and wires around the building must be properly hung or capped for the safety of the public.

- 14) *Parking (18.16(1)(j))* – The parking lot in the rear of the property must be maintained. Remove all vegetation where vehicles are parked. Parking can only occur on those areas that currently have gravel. If more parking is needed, it will need to be paved. (ZONING)
- 15) *Maintenance of Signs (19.20A(9)(c))* – The sign has chipped/flaked paint. Sand the sign and repaint it. In addition, portions of the concrete base of the sign are being eroded. Repair the concrete base. (ZONING)



May 22, 2019

GREG DART
74 E FRANKLIN ST
BELLBROOK OH 45305

Informal Violation letter

City of Bellbrook
15 E. Franklin Street
Bellbrook, Ohio 45305

T (937) 848-4666
F (937) 848-5190

www.cityofbellbrook.org

Mr. Dart,

This letter is being written in regards to our conversation last Friday (5/17/2019). Per our conversation, the City of Bellbrook will be focusing much of its attention on the revitalization of downtown. One of the principal goals of the city is to abate all property maintenance issues located in the Old Village. As you are aware, your property located at 7 W Franklin St is located at the center of the Old Village and currently has 29 property maintenance/code issues associated with it. Please find the attached list of property maintenance issues/zoning issues associated with 7 W Franklin St. for your reference.

As per our conversation, we are requesting a timeframe of when the exterior property maintenance and zoning issues can be addressed. **The timeframe should be submitted no later than 6/24/2019** and include a tentative start and end date for each issue. The timeframe must be acceptable to the city. Failure to submit a timeframe or not perform any progress towards the property maintenance issues within a reasonable timeframe will result in the city pursuing section 1450.99 of the Bellbrook Property Maintenance Code (enclosed).

We appreciate your compliance in helping to resolve these code violations. If you would have any questions or concerns, please feel free contact me to discuss code violations on the property. Should you wish to see each violation in detail, let me know and I can send you pictures of each one or meet with you on site to go over each violation in detail. I can be reached at 937-848-4666 or by email for J.green@cityofbellbrook.org.

Thank you for your assistance on this matter,

Jeff Green
Planning and Zoning
City of Bellbrook

Property Maintenance/Zoning Code Violations - 7 W Franklin St.

Violations

- 1) *Vegetation (1450.31(d))* – vegetation overgrowth is occurring between 7 W Franklin and 15 W Franklin. Remove all overgrowth vegetation from your portion of the property.
- 2) *Construction Equipment (1450.31(m))* – The construction dumpster located at the rear of the property must be removed. A dumpster is permitted on-site but it must have a tight-fitted lid.
- 3) *Outside Storage (1450.31(j))* – The materials being stored in the rear and side of the property must be removed and placed in an enclosed structure or screened from public view.
- 4) *Sidewalk and Driveways (1450.31(c))* – Portions of the sidewalk are becoming cracked and uneven. These portions of sidewalk must be repaired and placed within safe condition.
- 5) *Protective Treatment (1450.32(b))* –
 - a. **Roof** – The roof has significant oxidation (rusting). Remove the rust from the roof and apply a coat of a preventative material to prevent any further rusting. Any damaged portions of roof must be repaired.
 - b. **Wall** – The metal wall, as seen in the rear/side of the building, is beginning to rust. Remove the rust and apply a coat of preventative material to prevent further rusting. Replace any damaged material as needed.
 - c. **Windows** – The windows (and the frames) around the building have peeled paint or rust forming on them. Remove the rust/peeled paint and apply new paint/protective material to further prevent deterioration.
 - d. **Garage Door Frame** – Peeling paint is above the garage door frame. Remove the peeled/flaking paint and apply new paint to prevent further deterioration.
 - e. **Wooden Shingles** – The wooden shingles located along W Franklin St need cleaned and a coat of weatherproofed material applied to prevent further deterioration. In addition at both ends of the wood shingles a cover or cap needs to be installed to prevent further erosion.
 - f. **Wooden siding**– The wooden siding/support between the properties 7 and 15 W Franklin needs to be replaced or (if possible) treated to prevent further deterioration with paint or another weatherproofing material.
 - g. **Door Frame** – The frame of the door to the rear of the building is in need of repair and protective treatment/paint applied.
 - h. **Loudspeaker** – The loudspeaker along the front of the building needs to have the rust removed and protective treatment applied to prevent further deterioration.



- 6) *Street Number (1450.32(c))* – Currently, no street number exists that is easily observed from the public way. Place a street number on the building along W Franklin Street that can be easily observed from the right-of-way.

City of Bellbrook
15 E. Franklin Street
Bellbrook, Ohio 45305

T (937) 848-4666
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- 7) *Roofs and Drainage (1450.32(g))* –

- a. The portion of the building facing S Main St has stains on the stone and rust running down the side of the building. Fix the gutters/roof to prevent further leakage and remove the stains and oxidation from the side of the building.
- b. The downspout along S Main Street (near the intersection of S Main and W Franklin) partially is emptying out into the sidewalk. Fully cover the downspout so no further water moves onto the public sidewalk and lower part of the building.

- 8) *Foundation walls (1450.32(e))* – There are several instances of cracks and breaks along the foundational walls. These cracks occur both along W Franklin St. and S Main St. These breaks and cracks must be fixed.

- 9) *Exterior Walls (1450.32(f))* –

- a. **Siding** - There are several portions of the building that has missing or damaged siding. Install new siding to the affected areas and remove the damaged portions.
- b. **Soffits** – A soffit is missing near the downspout in the rear of the building. Install a new soffit to the area and ensure soffits are properly installed throughout the building.
- c. **Eaves and fascia** – The Eaves/fascia of the building are in need of repair and protective treatment applied.
- d. **Flashing** – The flashing on the rear of the building has been removed exposing the wood. New flashing is needed.
- e. **Retaining Wall** – The retaining wall on your property has deteriorated to the point that a large chunk has fallen off. Remove the chunk that fell off from the property and repair the retaining wall.

- 10) *Decorative Features (1450.32(h))* – The flower holders, and other decorative features, must be sanded and repainted in a weatherproof paint to prevent further deterioration.

- 11) *Handrails and Guards (1450/32(l))* - The handrail along South Main St. must be firmly fastened with the rust removed and weatherproofing material applied to prevent further deterioration.

12) *Window, Skylight and Door Frames (1450.32(m))* -

- a. **Door**- The front door along W Franklin St must be repaired and repainted to prevent deterioration and weathertight.
- b. **Window** – the window in the rear of the building must be repaired/replaced

13) *Motor vehicles (1450.31(h))* – The bus parked in the rear does not have up-to-date registrations. Remove the vehicle from the property or put proper registration on it.

14) *Unsafe Equipment* – Electrical Outlets and wires around the building must be properly hung or capped for the safety of the public.

15) *Parking (18.16(1)(j))* – The parking lot in the rear of the property must be maintained. Remove all vegetation where vehicles are parked. Parking can only occur on those areas that currently have gravel. If more parking is needed, it will need to be paved.

16) *Maintenance of Signs (19.20A(9)(c))* – The sign has chipped/flaked paint. Sand the sign and repaint it. In addition, portions of the concrete base of the sign are being eroded. Repair the concrete base.

Formal Violation Letter



July 2, 2019

GREG L DART
74 E FRANKLIN ST
BELLBROOK, OHIO 45305

City of Bellbrook
15 E. Franklin Street
Bellbrook, Ohio 45305

T (937) 848-4666
F (937) 848-5190

www.cityofbellbrook.org

Notification of Property Maintenance and Zoning Violations

This is to notify you that the property located at **7 W Franklin St, Bellbrook, OH 45305**, is in violation of various sections of the Bellbrook Property Maintenance and Zoning Codes. As stated in my previous letter to you dated May 22, 2019; the city had requested a timeframe for when work could begin to address the multiple property maintenance and zoning issues located on your property. To date, no timeframe has been received nor has any work on the violations begun.

Violations(s):

-A full list of all violations can be found on page 2-4 enclosed with this letter

Please take the following action(s) by 7/26/2019:

-Abate all property maintenance and zoning issues (needed corrective actions found on page 2-4)

Penalties

Failure to abate the listed property maintenance violations will result in \$250 fine, per violation, as indicated per section 1450.99(b) of the property maintenance code. Failure to abate the zoning violations will result in a \$25 fine per day (not to exceed \$250) for each zoning violation as indicated in section 19.12(3) of the zoning code. Should the fine not be paid, the city reserves the right to place a lien on the property.

Right to Appeal

Any person directly affected by a decision of the Code Official or a notice or order issued under this Code shall have the right to appeal to the Bellbrook Property Review Commission (BPRC), provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or the requirements of this Code are adequately satisfied by other means.

If you would have any questions or concerns, please feel free contact me to discuss this issue. I can be reached at 937-848-4666 or by email for J.green@cityofbellbrook.org.

Jeff Green
City of Bellbrook



Property Maintenance/Zoning Code Violations

Violations

City of Bellbrook

15 E. Franklin Street

Bellbrook, Ohio 45305

T (937) 848-4666

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- 1) *Vegetation (1450.31(d))* – vegetation overgrowth is occurring between 7 W Franklin and 15 W Franklin. Remove all overgrowth vegetation from your portion of the property.
- 2) *Construction Equipment (1450.31(m))* – The construction dumpster located at the rear of the property must be removed. A dumpster is permitted on-site but it must have a tight-fitted lid.
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 - b. **Wall** – The metal wall, as seen in the rear/side of the building, is beginning to rust. Remove the rust and apply a coat of preventative material to prevent further rusting. Replace any damaged material as needed.
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 - e. **Wooden Shingles** – The wooden shingles located along W Franklin St need cleaned and a coat of weatherproofed material applied to prevent further deterioration. In addition at both ends of the wood shingles a cover or cap needs to be installed to prevent further erosion.
 - f. **Wooden siding** – The wooden siding/support between the properties 7 and 15 W Franklin needs to be replaced or (if possible) treated to prevent further deterioration with paint or another weatherproofing material.
 - g. **Door Frame** – The frame of the door to the rear of the building is in need of repair and protective treatment/paint applied.
 - h. **Loudspeaker** – The loudspeaker along the front of the building needs to have the rust removed and protective treatment applied to prevent further deterioration.

- 6) *Street Number (1450.32(c))* – Currently, no street number exists that is easily observed from the public way. Place a street number on the building along W Franklin Street that can be easily observed from the right-of-way.

City of Bellbrook
15 E. Franklin Street
Bellbrook, Ohio 45305

- 7) *Roofs and Drainage (1450.32(g))* –

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- a. The portion of the building facing S Main St has stains on the stone and rust running down the side of the building. Fix the gutters/roof to prevent further leakage and remove the stains and oxidation from the side of the building.
- b. The downspout along S Main Street (near the intersection of S Main and W Franklin) partially is emptying out into the sidewalk. Fully cover the downspout so no further water moves onto the public sidewalk and lower part of the building.

- 8) *Foundation walls (1450.32(e))* – There are several instances of cracks and breaks along the foundational walls. These cracks occur both along W Franklin St. and S Main St. These breaks and cracks must be fixed.

- 9) *Exterior Walls (1450.32(f))* –

- a. **Siding** - There are several portions of the building that has missing or damaged siding. Install new siding to the affected areas and remove the damaged portions.
- b. **Soffits** – A soffit is missing near the downspout in the rear of the building. Install a new soffit to the area and ensure soffits are properly installed throughout the building.
- c. **Eaves and fascia** – The Eaves/fascia of the building are in need of repair and protective treatment applied.
- d. **Flashing** – The flashing on the rear of the building has been removed exposing the wood. New flashing is needed.
- e. **Retaining Wall** – The retaining wall on your property has deteriorated to the point that a large chunk has fallen off. Remove the chunk that fell off from the property and repair the retaining wall.

- 10) *Decorative Features (1450.32(h))* – The flower holders, and other decorative features, must be sanded and repainted in a weatherproof paint to prevent further deterioration.

- 11) *Handrails and Guards (1450/32(l))* - The handrail along South Main St. must be firmly fastened with the rust removed and weatherproofing material applied to prevent further deterioration.

- 12) *Window, Skylight and Door Frames (1450.32(m))* -



- a. **Door**- The front door along W Franklin St must be repaired and repainted to prevent deterioration and weathertight.
- b. **Window** – the window in the rear of the building must be repaired/replaced

City of Bellbrook
15 E. Franklin Street
Bellbrook, Ohio 45305

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F (937) 848-5190

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13) *Motor vehicles (1450.31(h))* – The bus parked in the rear does not have up-to-date registrations. Remove the vehicle from the property or put proper registration on it.

14) *Unsafe Equipment(1450.13(a)(2))* – Electrical Outlets and wires around the building must be properly hung or capped for the safety of the public.

15) *Parking (18.16(1)(j))* – The parking lot in the rear of the property must be maintained. Remove all vegetation where vehicles are parked. Parking can only occur on those areas that currently have gravel. If more parking is needed, it will need to be paved. (ZONING)

16) *Maintenance of Signs (19.20A(9)(c))* – The sign has chipped/flaked paint. Sand the sign and repaint it. In addition, portions of the concrete base of the sign are being eroded. Repair the concrete base. (ZONING)

If you would like a copy of the sections of code that the 7 W Franklin St (Bellbrook OH) is currently in violation for, please let me know and I will have one made for you.



August 7, 2019

GREG L DART
74 E FRANKLIN ST
BELLBROOK, OHIO 45305

City of Bellbrook
15 E. Franklin Street
Bellbrook, Ohio 45305

T (937) 848-4666
F (937) 848-5190

www.cityofbellbrook.org

Mr. Dart,

This letter is a follow up on the progression of the numerous property maintenance and zoning violations for your property located at 7 W Franklin Street, Bellbrook OH 45305. In my letters to you dated May 22, 2019 and July 2, 2019; 29 property maintenance/zoning violations were identified and ordered to be brought up to code by no later than 7/26/19. To date, I have confirmed that of the 29 original violations identified, 26 violations are still present.

As such, please find the following enclosed:

- 1) Invoice # 0000122
- 2) List of remaining violations

The above referenced invoice is a result of the violations not being abated and with payment being due no later than 9/10/2019. Should payment not be received, if the invoice is not paid in full the city has the right to file a lien on the property.

In addition, the city has forwarded this case to the Bellbrook Property Review Commission who will hold a public hearing on **Tuesday August 20th, 2019 at 6:15 PM** regarding the remaining violations on the site. You (or your representative) are highly encouraged to attend the public hearing to speak to the board.

Should you have any questions, please feel free to contact me at 937-848-4666 or by emailing me at j.green@cityofbellbrook.org.

Respectfully,

Jeff Green
City of Bellbrook



DATE	INVOICE NO
8/8/2019	0000122

BILL TO
G L DART 74 EAST FRANKLIN STREET BELLBROOK, OH 45305-2005

DUE DATE
9/10/2019

DESCRIPTION	QUANTITY	EFFECTIVE RATE	AMOUNT	DISCOUNT	CREDIT	BALANCE
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PREVIOUS OUTSTANDING BALANCE 0.00

7 W. Franklin Street Maintenance and Zoning Penalties:

Civil Penalties First Offense 1450.32	1.00	250.00	250.00	0.00	0.00	250.00
(f) Siding						
Civil Penalties First Offense	1.00	250.00	250.00	0.00	0.00	250.00
1450.32(m) Front Door						
Civil Penalties First Offense	1.00	250.00	250.00	0.00	0.00	250.00
1450.13(a)(2) Unsafe Equipment						
Civil Penalties First Offense 1450.32	1.00	250.00	250.00	0.00	0.00	250.00
(g) Downspouts						
Civil Penalties First Offense	1.00	250.00	250.00	0.00	0.00	250.00
1450.32(b) Metal Wall						

Continue to the next page . . .

PLEASE DETACH BOTTOM PORTION & REMIT WITH YOUR PAYMENT

For questions please contact us at

Customer Name: G L DART
Customer No: 006608
Account No: 0000036

DUE DATE	INVOICE NO
9/10/2019	0000122

Please remit payment by the due date to:

City of Bellbrook
15 E Franklin Street
Bellbrook, OH 45305

Invoice Total: 6,750.00
Discounts: 0.00
Credit Applied: 0.00
Ending Balance: 6,750.00

INVOICE BALANCE: \$6,750.00



DATE	INVOICE NO
8/8/2019	0000122

BILL TO

G L DART
74 EAST FRANKLIN STREET
BELLBROOK, OH 45305-2005

DUE DATE

9/10/2019

DESCRIPTION	QUANTITY	EFFECTIVE RATE	AMOUNT	DISCOUNT	CREDIT	BALANCE
Civil Penalties First Offense 19.20A(9)	1.00	250.00	250.00	0.00	0.00	250.00
(e) Sign Maintenance						
Civil Penalties First Offense 1450.32(e)	1.00	250.00	250.00	0.00	0.00	250.00
Foundation Walls						
Civil Penalties First Offense	1.00	250.00	250.00	0.00	0.00	250.00
1450.32(f) Handrails/Guards						
Civil Penalties First Offense	1.00	250.00	250.00	0.00	0.00	250.00
1450.32(b) Roof						
Civil Penalties First Offense	1.00	250.00	250.00	0.00	0.00	250.00
1450.32(c) Street Number						
Civil Penalties First Offense	1.00	250.00	250.00	0.00	0.00	250.00
1450.32(g) Gutters S. Main						
Civil Penalties First Offense	1.00	250.00	250.00	0.00	0.00	250.00
1450.31(d) Vegetation						
Civil Penalties First Offense	1.00	250.00	250.00	0.00	0.00	250.00
1450.32(b) Windows						

Continue to the next page . . .



DATE	INVOICE NO
8/8/2019	0000122

BILL TO
G L DART 74 EAST FRANKLIN STREET BELLBROOK, OH 45305-2005

DUE DATE
9/10/2019

DESCRIPTION	QUANTITY	EFFECTIVE RATE	AMOUNT	DISCOUNT	CREDIT	BALANCE
Civil Penalties First Offense 1450.32(m) Rear Window	1.00	250.00	250.00	0.00	0.00	250.00
Civil Penalties First Offense 1450.32(f) Retaining Wall	1.00	250.00	250.00	0.00	0.00	250.00
Civil Penalties First Offense 1450.32(b) Door Frame Rear	1.00	250.00	250.00	0.00	0.00	250.00
Civil Penalties First Offense 1450.32 (h) Decorative Feature	1.00	250.00	250.00	0.00	0.00	250.00
Civil Penalties First Offense 1450.32(b) Loudspeaker	1.00	250.00	250.00	0.00	0.00	250.00
Civil Penalties First Offense 1450.32(b) Wooden Shingles	1.00	250.00	250.00	0.00	0.00	250.00
Civil Penalties First Offense 1450.32(b) Wooden Siding	1.00	250.00	250.00	0.00	0.00	250.00
Civil Penalties First Offense 1450.31(c) Sidewalks/Driveways	1.00	250.00	250.00	0.00	0.00	250.00

Continue to the next page



DATE	INVOICE NO
8/8/2019	0000122

BILL TO
G L DART 74 EAST FRANKLIN STREET BELLBROOK, OH 45305-2005

DUE DATE
9/10/2019

DESCRIPTION	QUANTITY	EFFECTIVE RATE	AMOUNT	DISCOUNT	CREDIT	BALANCE
Civil Penalties First Offense - 18.16(1)	1.00	250.00	250.00	0.00	0.00	250.00
(j) Parking						
Civil Penalties First Offense	1.00	250.00	250.00	0.00	0.00	250.00
1450.32(f) Soffits						
Civil Penalties First Offense	1.00	250.00	250.00	0.00	0.00	250.00
1450.31(m) Outside Storage						
Civil Penalties First Offense	1.00	250.00	250.00	0.00	0.00	250.00
1450.32(b) Garage Door Frame						
Civil Penalties First Offense	1.00	250.00	250.00	0.00	0.00	250.00
1450.31(d) Const. Dumpster						
Civil Penalties First Offense 1450.31	1.00	250.00	250.00	0.00	0.00	250.00
(h) Motor vehicle						
INVOICE TOTAL:			6,750.00	0.00	0.00	6,750.00

Violations

City of Bellbrook

15 E. Franklin Street

Bellbrook, Ohio 45305

T (937) 848-4666

F (937) 848-5190

www.cityofbellbrook.org

- 1) *Vegetation (1450.31(d))* – vegetation overgrowth is occurring between 7 W Franklin and 15 W Franklin. Remove all overgrowth vegetation from your portion of the property.
- 2) *Construction Equipment (1450.31(m))* – The construction dumpster located at the rear of the property must be removed. A dumpster is permitted on-site but it must have a tight-fitted lid.
- 3) *Outside Storage (1450.31(j))* – The materials being stored in the rear and side of the property must be removed and placed in an enclosed structure or screened from public view.
- 4) *Sidewalk and Driveways (1450.31(c))* – Portions of the sidewalk are becoming cracked and uneven. These portions of sidewalk must be repaired and placed within safe condition.
- 5) *Protective Treatment (1450.32(b))* –
 - a. **Roof** – The roof has significant oxidation (rusting). Remove the rust from the roof and apply a coat of a preventative material to prevent any further rusting. Any damaged portions of roof must be repaired.
 - b. **Wall** – The metal wall, as seen in the rear/side of the building, is beginning to rust. Remove the rust and apply a coat of preventative material to prevent further rusting. Replace any damaged material as needed.
 - c. **Windows** – The windows (and the frames) around the building have peeled paint or rust forming on them. Remove the rust/peeled paint and apply new paint/protective material to further prevent deterioration.
 - d. **Garage Door Frame** – Peeling paint is above the garage door frame. Remove the peeled/flaking paint and apply new paint to prevent further deterioration.
 - e. **Wooden siding** – The wooden siding/support between the properties 7 and 15 W Franklin needs to be replaced or (if possible) treated to prevent further deterioration with paint or another weatherproofing material.
 - f. **Door Frame** – The frame of the door to the rear of the building is in need of repair and protective treatment/paint applied.
 - g. **Loudspeaker** – The loudspeaker along the front of the building needs to have the rust removed and protective treatment applied to prevent further deterioration.
- 6) *Street Number (1450.32(c))* – Currently, no street number exists that is easily observed from the public way. Place a street number on the building along W Franklin Street that can be easily observed from the right-of-way.

7) *Roofs and Drainage (1450.32(g)) –*

- a. The portion of the building facing S Main St has stains on the stone and rust running down the side of the building. Fix the gutters/roof to prevent further leakage and remove the stains and oxidation from the side of the building.
- b. The downspout along S Main Street (near the intersection of S Main and W Franklin) partially is emptying out into the sidewalk. Fully cover the downspout so no further water moves onto the public sidewalk and lower part of the building.

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8) *Foundation walls (1450.32(e)) –* There are several instances of cracks and breaks along the foundational walls. These cracks occur both along W Franklin St. and S Main St. These breaks and cracks must be fixed.

9) *Exterior Walls (1450.32(f)) –*

- a. **Siding** - There are several portions of the building that has missing or damaged siding. Install new siding to the affected areas and remove the damaged portions.
- b. **Soffits** – A soffit is missing near the downspout in the rear of the building. Install a new soffit to the area and ensure soffits are properly installed throughout the building.
- c. **Flashing** – The flashing on the rear of the building has been removed exposing the wood. New flashing is needed.
- d. **Retaining Wall** – The retaining wall on your property has deteriorated to the point that a large chunk has fallen off. Remove the chunk that fell off from the property and repair the retaining wall.

10) *Decorative Features (1450.32(h)) –* The flower holders, and other decorative features, must be sanded and repainted in a weatherproof paint to prevent further deterioration.

11) *Handrails and Guards (1450.32(l))–* The handrail along South Main St. must be firmly fastened with the rust removed and weatherproofing material applied to prevent further deterioration.

12) *Window, Skylight and Door Frames (1450.32(m)) -*

- a. **Door**- The front door along W Franklin St must be repaired and repainted to prevent deterioration and weathertight.
- b. **Window** – the window in the rear of the building must be repaired/replaced



13) *Motor vehicles (1450.31(h))* – The bus parked in the rear does not have up-to-date registrations. Remove the vehicle from the property or put proper registration on it.

14) *Unsafe Equipment(1450.13(a)(2))* – Electrical Outlets and wires around the building must be properly hung or capped for the safety of the public.

15) *Parking (18.16(1)(j))* – The parking lot in the rear of the property must be maintained. Remove all vegetation where vehicles are parked. Parking can only occur on those areas that currently have gravel. If more parking is needed, it will need to be paved. (ZONING)

16) *Maintenance of Signs (19.20A(9)(c))* – The sign has chipped/flaked paint. Sand the sign and repaint it. In addition, portions of the concrete base of the sign are being eroded. Repair the concrete base. (ZONING)

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If you would like a copy of the sections of code that the 7 W Franklin St (Bellbrook OH) is currently in violation for, please let me know and I will have one made for you.

Adam James Stout, Esq.

5335 Far Hills Ave., Ste 109

Dayton, OH 45429

Tel: (937) 293-1911

Fax: (937) 293-2518

November 14, 2019

Via Email

Mr. Jeff Green
City of Bellbrook
Planning and Zoning
15 E. Franklin Street
Bellbrook, OH 45305

RE: Maintenance/Code Issues on 7 West Franklin St., Bellbrook, OH 45305

Mr. Green:

Thank you again for meeting with us today, the following is our initial proposal regarding addressing the alleged violations in the letter dated August 7, 2019. Many of the repairs are expected to be completed by February 28, 2020 (After further consult with Mr. Dart, most of the items to be completed by November 19, 2019). However, the major repairs will require approximately two years. Our plan and our objections are presented in the order that your letter addressed them:

1. Vegetation overgrowth has been removed and some of the vegetation comes from 15 W. Franklin;
2. As to the presence of the construction dumpster, we are objecting to this violation because the property is in a multi-use area that permits a variety of businesses including, but not limited to those, listed in Article 12 of the Zoning Code. The Nature of Mr. Dart's business is construction and storing the construction style dumpster would be an "accessory use;"
3. We are objecting to this violation because the ordinance listed (1450.50(j)) applies only to residential zones and because the property is in a multi-use area that permits a variety of businesses including, but not limited to those, listed in Article 12 of the Zoning Code;
4. We object to the application of the this ordinance because it is too vague to properly enforce and the sidewalk area in question are not uneven;
5. Regarding 1450.32(b);
 - a. We are objecting to this citation because, Roof is not leaking, has no sign of corrosion to the point of replacement. Consequently, the ordinance does not apply. However, we expect it will be replaced in Renovation. The entire roof structure will be changed and framed accordingly, currently working on drawings with architect.
 - b. The Metal Wall will also be replaced as part of the larger renovation;

- c. The Windows and Frames will be replaced as part of the larger renovation;
- d. The Garage Door Frame should be completed by February 28, 2020;
- e. The wooden siding will be replaced as part of a larger Renovation;
- f. The Door Frame should be completed by February 28, 2020;
- g. The Loudspeaker should be completed by February 28, 2020;
- 6. The Street Number should be added by February 28, 2020;
- 7. The Drains have been repaired and the wall has been powerwashed;
- 8. The Foundation Wall will be address as part of the larger Renovation;
- 9. Exterior Walls (1450.32(f));
 - a. Siding will be repaired by February 28, 2020;
 - b. The Soffit has been resecured.
 - c. The Retaining wall belongs to 15 W Franklin St., and we will discard the fallen portion promptly;
- 10. We will scrape, repair as necessary, prime and paint the Decorative Features (1450.32(h)) by February 28, 2020;
- 11. Handrail is Secured and will be painted by February 28, 2020;
- 12. Windows Skylight and door frames (1450.32(m));
 - a. The Door will be repaired and repainted by February 28, 2020;
 - b. The Windows will be replaced/repainted by February 28, 2020;
- 13. They are waiting on the getting the new title transferred in his name in order to get the new registration, which will be completed in a few days;
- 14. As to Wiring equipment, AT&T was called and we will also contact an electrician and it should be resolved by February 28, 2020;
- 15. As to the gravel parking lot, we have to finish killing off the grass that has grown over the gravel which will be done soon;
- 16. The concrete base of the sign is not loose, there is only a crack, and the sign post will be sanded and painted by February 28, 2020.

A spreadsheet has been attached outlining our timetable for completing this. After further consult with Mr. Dart, most of the items to be completed by November 19, 2019. (the day of the hearing)

Best Regards,

s/Adam Stout
Adam James Stout, Esq.

AS

Enclosure

