

May 15, 2019



Memorandum for the Board of Zoning Appeals

Subject: Public Meeting on May 21, 2019

City of Bellbrook
15 East Franklin Street
Bellbrook, Ohio 45305

T (937) 848-4666
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www.cityofbellbrook.org

This is to confirm that the Planning Board will conduct a public meeting on **May 21, 2019 at 6:15 PM** to review one Board of Zoning Appeals case. Please find the following enclosed: an agenda for the meeting, the minutes to approve from October 16, 2018, and case materials.

Please let me know if you have any questions on this material.

Sincerely,

Jeff Green
Planning and Zoning



Board of Zoning Appeals

May 21, 2018 6:15 PM

Agenda

1. Call to Order
2. Roll call
3. Approval of prior minutes of October 16, 2018
4. New Business:
 - BZA Case 19-01: Variance Request – 2310 Portage Path**
 - Staff Summary
 - Property Owner
 - Public Input
 - Board Discussion/Decision
5. Old Business:
 - 2088 Dane Lane Update
6. Open Discussion
7. Adjournment

BELLBROOK BOARD OF ZONING APPEALS
PUBLIC HEARING MINUTES
OCTOBER 16, 2018

PRESENT: Ms. Schroder
Mr. Philip Ogrod
Mr. Robert Middlestetter
Mr. Robert Guy
Chairman Brinegar

CALL TO ORDER:

Chairman Brinegar called the meeting of the Board of Zoning Appeals to order at 6:17 PM and requested any questions regarding the prior minutes; hearing none, Mr. Guy moved to approve the prior minutes of June 19, 2018. Chairman Brinegar seconded the motion. Roll was called. Ms. Schroder, abstain; Mr. Ogrod, yes; Mr. Middlestetter, abstain; Mr. Guy, yes; Chairman Brinegar; yes;. The motion carried 3-0.

It is noted for the record that Mr. Don Buczek, Assistant to the City Manager and Ms. Melissa Jones, Code Enforcement Officer were also in attendance.

NEW BUSINESS:

BZA CASE #18-02 Conditional Use Request 4120 West Franklin Street

Mr. Buczek outlined the request by the owner, Tony Cali of Cali and Associates, for a conditional use permit. The owner wishes to move his existing Allstate office to the location. The property is currently zoned multi-family residential which professional office uses are permitted under a conditional use and requires approval by the Board of Zoning Appeals. The property has been used as a medical office for the last 40 years. This request was also approved by the Planning Board on October 11, 2018 for the question of how the requested use corresponds with the Comprehensive Plan. There are no significant changes to be made to the building and will be used in a similar fashion as the previous use. It is the recommendation of staff that the conditional use be approved.

Chairman Brinegar opened the floor for public comment. Mr. Buczek swore in those who wished to speak. Mr. Tony Cali of 4120 West Franklin acknowledged that he had been sworn in and indicated that he would be available to answer any questions. He also described the sign that is approved by Allstate to use. He also indicated his wish to leave all trees on the property but does plan to remove some of the undergrowth. Mr. Middlestetter stated that he believes that this is an ideal use for the property. Chairman Brinegar questioned how the use would be a benefit to the surrounding properties that was indicated in a letter submitted by Mr. Cali. Mr. Cali indicated that his parking lot would serve as overflow parking for the adjacent church. Mr. Michael Geis of 1970 Bellevue

supported the proposal and asked for clarification from staff whether this was two separate parcels as there were two for sale signs. Mr. Buczek confirmed that there was in fact only one property. Mr. Middlestetter moved to approve the request for a conditional use permit for the property located at 4120 West Franklin Street for office use for executive, administrative, legal, writing, clerical, stenographic, accounting, insurance or similar enterprises. Mr. Guy seconded the motion. Roll was called. Ms. Schroder, yes; Mr. Ogrod, yes; Mr. Middlestetter, yes; Mr. Guy, yes; Chairman Brinegar; yes;. The motion carried 5-0.

BZA CASE #18-0 Variance Request for 2083 Sheffield Court

Mr. Buczek presented the request to remove part of an existing deck to construct a screened in porch on the rear of the house which would be built in the required rear yard setback. The home was constructed prior to the zoning code. The house is currently in the setback which would be in violation of the current zoning code. The setback requirement is 40 feet and the home is 36 feet from the property line and the proposed screened porch would be 26 feet from the property line. In 2000, the previous property owners were granted a variance for the deck. Any construction in the setback requires a variance. Mr. Buczek noted other similar approved variances. It is the recommendation of staff to approve the variance request.

Mr. Middlestetter noted that this request would not interfere with any of the surrounding neighbors. Chairman Brinegar indicated her support for the request.

Mr. Guy moved to approve the request for a variance for the property located at 2083 Sheffield Court for the construction of a screened in porch in the rear yard setback. Ms. Schroder seconded the motion. Roll was called. Ms. Schroder, yes; Mr. Ogrod, yes; Mr. Middlestetter, yes; Mr. Guy, yes; Chairman Brinegar; yes;. The motion carried 5-0.

OLD BUSINESS:

PRC Case #18-06 Request for prosecution for the property located at 2130 Clearview Drive

Ms. Jones reviewed the violation and history on the property which relates to exterior walls. The Property Review Commission previously gave the property owner until July 31, 2018 to bring the property into compliance which has not been completed to date. Fines were assessed on August 10, 2018. As of September 28, 2018 there was no further progression and a letter was sent to the property owner requesting an update. Ms. Jones spoke to Mr. Baker, property owner, and told him that if the work was completed by the day of the hearing that the case would be dismissed. As of this morning, the work was still not complete. It is the recommendation of staff to request prosecution in this case.

Chairman Brinegar opened the floor for public comment. Mr. Buczek swore in those who wished to speak. Mr. Mike Baker of 2135 Clearview Drive acknowledged that the work has not been completed. Mr. Baker outlined a number of family issues as the reason for the work not being completed. Mr. Baker stated he did not receive the notices about the fines. Mr. Middlestetter noted

that this work could be completed by a contractor and that this should be a priority. Mr. Guy asked the property owner how many days it would take to complete the project. Mr. Baker stated that it could be done in 3-4 days but asked for 30 days. Chairman Brinegar noted that the permit was pulled in 2007 and the work was supposed to be completed by 2008. Ms. Schroder asked if the fine has been paid. Ms. Jones indicated that it had not been paid to date. Chairman Brinegar noted that some of the hardships outlined by Mr. Baker occurred prior to the last meeting. Mr. Middlestetter again outlined that the assistance of a contractor would be useful. The Board discussed the process for which penalties are assessed and the need for meetings to be convened to discuss those future penalties for a current case. Ms. Schroder asked if the fees could be waived as an incentive to complete the work in a shorter time period otherwise there is an end date to move to prosecution. Chairmen Brinegar indicated that the fees have already been assessed. Mr. Buczek indicated that the fine period has come and gone. Ms. Jones outlined that on June 6th a letter was sent to Mr. Baker outlining the fines that would be assessed on August 10th if the violations were not in compliance. Chairman Brinegar also noted a separate letter sent on September 28th outlining the incomplete violations. The Board and staff discussed the communications sent to the property owner. It was requested by the Board that future communications be sent certified. The Board discussed a new timeline for the work to be completed and the various options for proceeding with the case.

Ms. Schroder made a motion to waive fines and no prosecution if the project is completed by October 31, 2018. If completed by November 6, 2018, fines remain and no prosecution. If not completed by November 6, 2018, fines remain and forward to prosecutor. Mr. Ogrod seconded the motion. Roll was called. Ms. Schroder, yes; Mr. Ogrod, yes; Mr. Middlestetter, yes; Mr. Guy, no; Chairman Brinegar; yes. The motion carried 4-1.

OPEN DISCUSSION:

Ms. Jones gave updates on past Property Review Commission cases.

PRC Case #18-01 274 Pinegrove Drive

The case went to prosecution and was dismissed for compliance.

PRC Case #18-04 4071 Woodedge Drive

Fines were assessed and the property is still being worked on. Fines have not been paid yet by the property owner. The process of unpaid fines was discussed. Liens can be assessed and prosecution can occur.

PRC Case #18-05 2088 Dane Lane

The 10 day fine period has passed for four violations and will be assessed for \$1000 total. The invoice will be sent. The next step will be prosecution. Mr. Buczek outlined that with the property owner being out of state could complicate matters and the Board may have to discuss other options.

Mr. Buczek outlined the process for setting meetings and submitting the materials for the upcoming calendar year. The Board acknowledged the process and thanked Mr. Buczek for a job well done.

ADJOURNMENT:

There being no further business to discuss, Mr. Ogrod made a motion to adjourn. Mr. Guy seconded the motion. With unanimous consent, the meeting adjourned at 7:31 PM.

Meredith Brinegar, Chairman

Date

Melissa Dodd, Secretary

Date



To: Board of Zoning Appeals
From: Jeff Green, Planning and Zoning Assistant
Date: May 15, 2019
Subject: Staff Report for BZA Case 19-01 – 2310 Portage path

Summary of the Request

The property owner at 2310 Portage Path is requesting a variance to place an 8x12 shed 5 feet from the side and rear yard property. Per article 18.05A, an accessory building must be placed at least 8' from the side and rear yard property lines. The Board of Zoning Appeals is being asked if the proposed shed can be approved to be built in the required side and rear yard setback.

Applicant Information

Owner: Phillip Rudolph
2310 Portage Path
Bellbrook, Ohio 45305

Current Zoning District

R-1B One-Family Residential

Parcel Identification

Parcel ID # L35000200070002900, 0.5 Acres

Additional Actions or Next Steps to be taken by the City

None

Applicant's Reason for the Request

The applicant would like to place a 8x12 shed 5' from the side and rear property lines. The property, as can be seen via the aerial, has an odd shape with the rear lot line lot lines narrowing significantly as it stretches from one end of the property to the other. Additionally, with the existing vegetation and hills on the property, the proposed shed placement would

present the least obtrusive and visually appealing location. If approved, the shed could not be seen from the road and will be abutting a fence and honeysuckles.

It should be noted that there is an easement located on the property 5' from line. The proposed structure would be located outside of the easement.

Surrounding Land Use within 1,000 Feet

The land surrounding the subject property is principally R-1B single family residential; however there A-1 (agriculture) to the west, east and south.



Previous Related Variances in the past 3-5 years

April 26, 2017: 63 W Maple St, request 200 SF acc bldg. to be located **4' from side lot line**, approved 3-0;

July 13, 2016: 11 E Walnut St, request 64 SF acc bldg. to be located **2' from side lot line** & retaining a 672 SF detached garage, approved 3-0;

April 5, 2016: 2119 Vemco Drive, request 96 SF acc bldg. to be located **1-2' from side and rear lot lines**, approved 5-0;

April 5, 2016: 7376 Wilmington-Dayton Rd, request 80 SF acc bldg. to be located **4' from side lot line**, approved 5-0;

January 29, 2014: 3943 Elizabeth Cir, request for 160 SF acc bldg. to be located in **required**

side yard and 2-3' from side lot line, approved 3-0;

Flood Plain Information

The property is not within the flood plain

Comments from City and County Agencies

None

Supporting Maps & Graphics





Staff Recommendation

Staff recommends the variance request be approved as submitted. Staff is basing this recommendation on the following:

- Lot shape (in relation to building placement)
- Topography
- Past history of similar requests



CITY OF BELLBROOK

APPLICATION FOR ZONING VARIANCE

15 EAST FRANKLIN STREET, BELLBROOK, OHIO 45305

(937) 848-4666 WWW.CITYOFBELLBROOK.ORG

APPLICANT INFORMATION

DATE RECEIVED 4 / 25 / 19 APPLICATION # 1-19
PROPERTY OWNER Phillip G. Rudolph PHONE NUMBER (937) 572-1870
OWNER ADDRESS 2310 Portage Path, Bellbrook, OH 45305
APPLICANT NAME Phillip G. Rudolph PHONE NUMBER (937) 572-1870
APPLICANT ADDRESS 2310 Portage Path, Bellbrook, OH 45305

REQUEST INFORMATION

PROPERTY ADDRESS 2310 Portage Path, Bellbrook, OH 45305 ZONING DISTRICT R-1A
SUBDIVISION Raynette 2 ALL LOT NUMBER 29 PARCEL ID L35-0002-0007-0-0029-00
DESCRIBE THE GENERAL NATURE OF THE VARIANCE 8 x 12 basic storage shed built four (4) feet from back and side property lines. The Southwest corner of the lot is at an acute angle less than ninety (90) degrees. Because of the angle of the lot, moving the shed eight (8) feet north moves the shed toward the west property line, and as the shed is moved away from the west property line, the shed moves back toward the south property line. The shed ends way out into the yard.

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  DATE 04/25/2019

OFFICE USE ONLY

APPLICATION FEE	PAYMENT TYPE	REVIEW AUTHORITY
<u>\$ 100.00</u>	CASH <input type="checkbox"/> CHECK <input checked="" type="checkbox"/> # <u>1384</u>	ADMINISTRATIVE, BOARD OF ZONING APPEALS
BOARD OF ZONING APPEALS	MEETING DATE <u>5 / 21 / 2019</u>	APPROVED <input type="checkbox"/> DENIED <input type="checkbox"/> CONDITIONS <input type="checkbox"/>

- Per applicant, change proposed setbacks to 5' due to corner
- 5/15/19
28

April 29, 2019

Jeff Green
Zoning and Planning
City of Bellbrook
15 East Franklin Street
Bellbrook, OH 45306

Jeff:

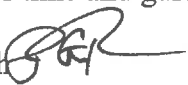
I have enclosed a basic diagram of the area in the back of our property where I am requesting the variance. I measured the angle of the south and west corner of the yard from the aerial photo, so I am sure it isn't 100% accurate, however will provide the overall visual essence of the need for the variance. The angle between the side (West) and back (South) property lines is around 53°. As a result, the acute angle requires the shed to start approximately ten (10) feet in order to remain eight (8) feet from both boundaries.

I would like to build an 8 x 12 foot shed (standard Lowe's) with two doors on the twelve (12) foot side. There is a row of mature spruce trees along the west fence, and mature viburnums and a lilac on the south fence line. Building the shed to conform to the current code would result in the spruce partially blocking access doors to the shed. The shed would also be between the viburnums and spruces, occluding access to the back corner of the yard. The variance request would resolve the issues with the landscape and access.

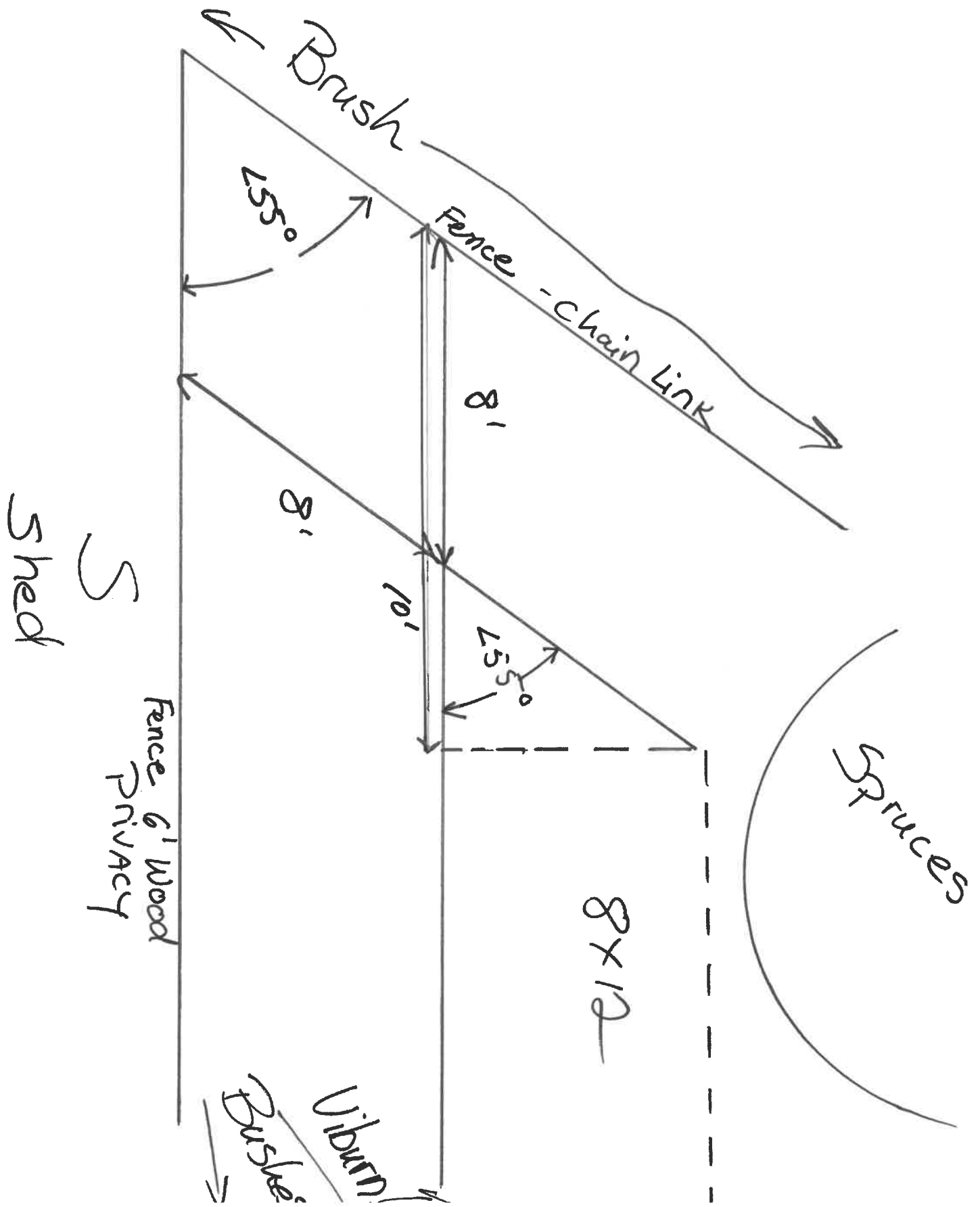
Our yard has an interesting and challenging shape. The back yard is more narrow than it appears, there is a rolling hill, and it slopes from both west to east and south to north. The back corner is the least obtrusive and the most level. The fence along the south side of the proposed area is a six (6) foot wood privacy fence. The fence along the west border of the proposed area is chain link. Our neighbor on the west side has used the back corner for brush, yard debris, and has honey suckle growing there. The proposed location of the shed would not create an obstruction or unsightly view for the neighbors.

You are welcome to take pictures as per our previous conversations. The variance request will allow me to place the shed in the least obtrusive location on our property. Please contact me if you have additional questions or concerns.

Thanks for your time and guidance-

Phillip Rudolph 
2310 Portage Path
Bellbrook, OH 45305

W



Question #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.

Response - Residential property; the proposed variance area of the backyard currently not used. My wife has asthma and I would like to store lawn equipment in the shed to remove gas powered mower from garage (gasoline fumes, etc.).

Question #2 - Whether the variance is substantial.

Response - The variance is not substantial; we will honor the five (5) foot utility variance so the variance request is for three (3) feet.

Question #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.

Response - The two (2) adjoining properties would not be adversely affected. The neighbor at the rear (south side) of our property has a six (6) foot wooden privacy fence with a storage shed opposite the approximate area of our proposed shed. The neighbor on the west side of our property has used the adjoining area to pile brush, and there is wild honeysuckle and other vines and wild plants.

Question #4 - Whether the variance would adversely affect the delivery of government services such as water, sanitary sewer, or garbage removal.

Response - this area of our property is in the rear; there is no water or sewer lines, and would not affect garbage removal.

Question #5 - Whether the property owner purchased the property with knowledge of the zoning restriction.

Response - No; the property was purchased in April 1983 and the we were informed only of the utility variance, and at that time we understood the utility variance was four (4) feet and only at the back of the property. We appreciate Jeff's research to identify that the utility variance is five (5) feet at the rear and both sides.

Question #6 - Whether the property owner's predicament feasible can be obviated through some other method other than a variance.

Response - Due to the shape of the lot, placement of the house, and the landscape (including incline of the yard), there is limited alternative space where the shed could be built. The alternatives would result in building the shed in the middle of the backyard or in the side yard.

Both alternatives would substantially detract from the visual look of the property and the neighborhood.

Question #7 - Whether the spirit and intent of behind the zoning requirement would be observed and substantial justice done by granting the variance.

Response - The request is aligned with the intent behind the zoning requirement. The essence of the variance is to prevent adversely impacting the character and visual look of the property and neighborhood. The proposed location eliminates a obstructive shed by placing the shed in the back corner area.