



Board of Zoning Appeals

May 19, 2020 6:15 PM

Agenda

1. Call to Order
2. Roll call
3. Approval of prior minutes of February 27, 2020
4. New Business:
 - **20-02-BZA 2173 Barnett Drive Secondary Garage**
 - Staff Summary
 - Property Owner
 - Public Input
 - Board Discussion/Decision
5. Adjournment

Zoom information:

Melissa Dodd is inviting you to a scheduled Zoom meeting.

Topic: BZA PRC Meeting

Time: May 19, 2020 06:15 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/87817804953?pwd=Qjl4Ykx4VEhnYTE0eW1CRVRLWWtyZz09>

Meeting ID: 878 1780 4953

Password: 340882

BELLBROOK BOARD OF ZONING APPEALS AND PROPERTY REVIEW COMMISSION
PUBLIC HEARING MINUTES
FEBRUARY 27, 2020

PRESENT: Mr. Aaron Burke
Mr. Philip Ograd
Chairperson Meredith Brinegar

CALL TO ORDER:

Chairman Brinegar called the meeting of the Board of Zoning Appeals to order at 7:00 PM. The Secretary called the roll. Mr. Burke, yes; Mr. Ograd, yes; Mrs. Brinegar, yes.

Mr. Ograd made a motion to excuse Mrs. Schroeder from the meeting. Mr. Burke seconded the motion.

It is noted for the record that the Planning and Zoning Assistant Jessica Hansen was in attendance.

APPROVAL OF MINUTES:

Mr. Burke made a motion to approve the prior minutes of November 19, 2019. Mr. Ograd seconded the motion. All were in favor. The motion carried 3-0.

NEW BUSINESS:

- **19-106-VRB-VA: Projecting Sign (18 E Franklin Street)**

Zoning Administrator Jessica Hansen presented the case stating that the reason for the variance request is that the sign will be 9.14 feet above the sidewalk. The code requires signs to be 10 feet above the sidewalk. The reason for the difference is due to the brackets mounting the sign.

The Salon 4 business owner Libby Masbaum expressed her desire for approval for the sign.

Mrs. Brinegar and other board members agreed that the sign was very nice looking and will be a good addition.

Mr. Burke asked why the code states 10 feet? Mrs. Hansen said it is a normal height. Some municipalities have it at 9 feet.

Mr. Burke made a motion to approve 19-106-BZA Projecting Sign for 18 E Franklin Street. This was seconded by Mr. Ograd. The Clerk called the roll. Mr. Burke, yes; Mr. Ograd, yes; Chairman Brinegar, yes. The motion passed 3-0.

- **20-11-BZA 119 E Franklin Conditional/Special Use Request**

Mrs. Hansen presented the case. The business owner also owns Francis Kennels. The proposal for this property is primarily to be used as administrative services and also a location to distribute the remains of animals that have been cremated (offsite).

Mr. Grech 1699 Washington Mill Road explained that the part of their business that cremates pets, Paws to Wings, needs a quiet location where pet owners can pick up the remains. The animals are cremated at the township kennel site.

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Mr. Ogrod asked about the old kennel portion of the building that was previously a veterinary clinic. Mr. Grech explained that the kennels had been built in the 1970s and are not conducive to current cleaning requirements so they will not be used.

There was discussion about making sure that cremations do not happen at the city location. Mr. Grech explained that the cremator is very large using an extreme amount of power which requires approval from the electric company. It is not something that can move locations.

Mr. Ogrod made a motion to approve 20-011-BZA Conditional Use for 119 E Franklin Street. This was seconded by Mr. Burke. The Clerk called the roll. Mr. Ogrod, yes; Mr. Burke, yes; Chairman Brinegar, yes. The motion passed 3-0.

5. Old Business:

19-02-PRC: 7 W Franklin Street – Update

The Clerk reported that following the decisions of the board on November 19, 2019 meeting Mr. Dart, the property owner, filed an appeal with the courts. The City has supplied all the information the court has requested. There has been no more activity on the case.

Greg Dart, owner of 7 W Franklin Street was in attendance and asked to clarify and was allowed to speak. He explained that the appeal of the BZA's decisions listed out the motions that he was not agreeing with. He reiterated that he had not agreed to two of the items listed in the motions from that meeting. The two items are: Violation #2 Construction Equipment and #3 Outside Storage.

Mr. Dart listed all of the work that he has done on the building that included most of the items from the spreadsheet provided by him for the November 19 meeting. He also explained additional work he had done.

He said had given some of the larger projects a two-year deadline as an act of good faith. But he stated he won't agree to the requirement not to store materials behind the building. He also stated his need to keep the construction dumpster behind the building as long as he is working on the remodeling.

Mr. Dart expressed his desire to work with the PRC to show that the other violations have been corrected. He also said he would be willing to rescind the appeal. He asked if Mrs. Hansen could schedule a time to inspect the property.

Zoning Inspector Jessica Hansen explained that she would like to go over the specifics of the case and the current status of the property.

Chairman Brinegar stated that procedurally she was unsure how the PRC can proceed considering the pending litigation.

Cherie Hathaway, 74 W Franklin Street stated that she had sent correspondence to the City Manager who told them that the appeal meant that nothing else could happen with the board. They had hoped to show the completion of the work so far and have the fines dismissed. She

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said that even though they were only appealing two items, their lawyer told them the appeal is filed against the entire action of the board.

The board expressed their intention to follow their decision which would dismiss the fines if the work was completed by March.

Mr. Dart expressed his frustration with the process and how he has felt singled out by the City. He said he has overlooked very disorganized communication with the City over years. This has taken his time and resources away from his business.

6. Adjournment

Chairman Brinegar adjourned the meeting at 7:53 PM.

To: Board of Zoning Appeals
From: Jessica Hansen, Planning & Zoning Assistant
Date: May 13, 2020
Subject: BZA Staff Report for BZA Case VA 20-02 2371 Barnett Drive – Accessory Structure

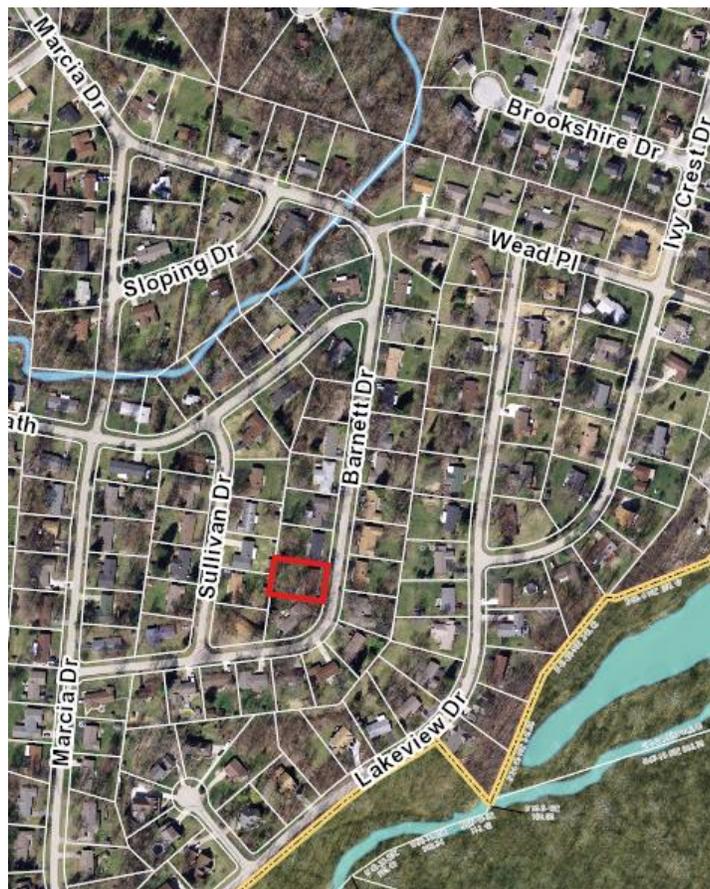
Summary

The request is to install a garage in the rear yard of the property located at **2371 Barnett Dr, Bellbrook, OH 45305**. He plans on keeping classic cars in the garage. Request for variance from section 18.05A of the zoning ordinance.

Applicant Information:

- **Applicant Name:** John Lucas
- **Applicant Address:** 2371 Barnett Drive, Bellbrook, Ohio 45305
- **Property Owner:** John & Renata Lynn Lucas

Location:



The property is located on Barnett Dr right before the curve that leads to the intersection of Barnett Drive and Sullivan Drive in the southern portion of the city.

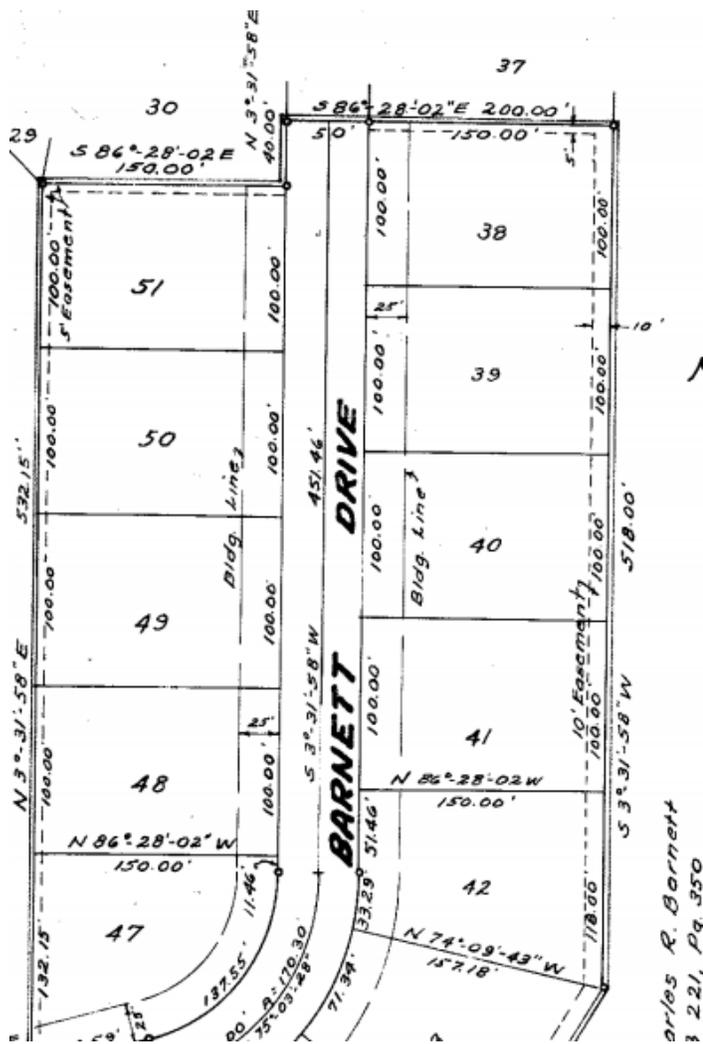
Zoning:

R-1B One-Family Residential: Intent: "These districts are the most restrictive of the residential districts. The purpose and intent is to provide for an environment of predominantly low density single unit dwellings plus certain other facilities which serve the residents living in the district and to regulate transient occupancy with the city to protect and preserve the permanency of residential neighborhoods, protect property values, and ensure the comfort and safety of the residents. "

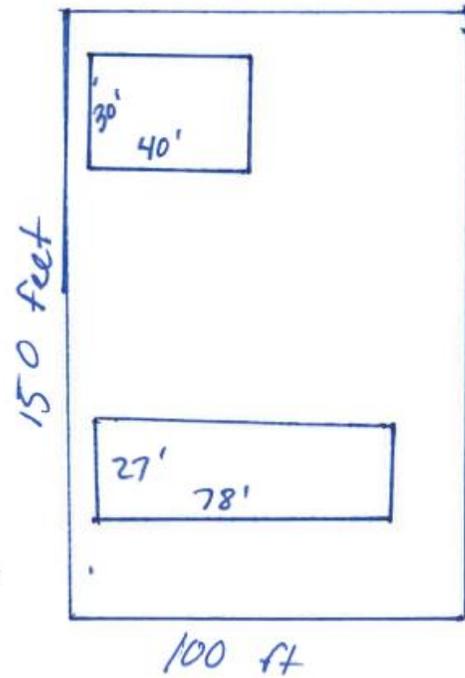
Accessory uses: Article 5 Section 5.03 "Private garage for storage of vehicles of residents and employees."

Yard Requirements: Minimum Rear yard 40 feet, Minimum Side yard 8 feet.

Recorded Easements: 5' utility easement in rear yard. Lot 48 is 2371 Barnett Dr.



Accessory Structure Request Information: The applicant wishes to place a 30' x 40' 1200 square foot garage in his rear yard. At 8 feet from the side yard and 10 feet from the rear yard.



Similar Structures:



1500 Square Feet



2500 Square Feet



1200 Square Feet

Per section 18.05A: *“Detached accessory buildings (including garages) constructed on a one-family lot shall not exceed, in the aggregate, six hundred (600) square feet.”*

Discussion

The Board of Zoning Appeals should decide whether or not to grant this variance from Section 18.05A. With that being said, rules are there for a reason, however it is clearly shown that this rule hasn't been followed in the past with some garages being much larger than what this applicant is requesting. There is also something to be said for respecting individual property rights, however if it is found that the neighbors overwhelmingly oppose this request perhaps that is something the BZA should consider as well. The decision shall lay in the hands of the Board of Zoning Appeals.

Jessica Hansen

From: mary taylor <marytaylr@hotmail.com>
Sent: Saturday, May 9, 2020 3:55 PM
To: Jessica Hansen
Subject: 2371 Barnett Dr

Hello,

We received a notice about the owner of subject property requesting a variance for a 1200 sq ft garage. We strongly object. It would be too big and an eyesore.

Mary Taylor
Creekview Development

Jessica Hansen

From: Katherine deGruchy <oboerootbeer@yahoo.com>
Sent: Monday, March 16, 2020 2:56 PM
To: Jessica Hansen
Subject: Request for Variance #V20-02

Hello Jessica Hansen

In regards to the garage being built on the 2371 Barnett Dr property I think that would be fine as I don't think we will even see it much the way his fence and back yard are situated.

thank you

Kathy deGruchy
2396 Barnett Dr

The Lucas family residing at 2371 Barnett Dr Bellbrook Ohio 45305 plan to build an accessory garage in the rear yard. The measurements of the garage would be 30ft wide and 40 ft long. It would be built 10 ft off the back-property line and 8 feet off the side property line. I understand by signing this my view of the neighborhood may be partially obstructed. I have no objections to accessory garage being built on their property.

Alton J. Hudgin's 2382 Sullivan Dr.

Name

Address

Janis D. Moore 2383 Barnett Dr

Name

Address

Travis Odon 2392 Sullivan Dr.

Name

Address

Landon Wagstaff 2357 Barnett Dr. Bellbrook

Name

Address

Gary E. Clemens
GARY CLEMENS 2368 Barnett Dr, Bellbrook

Name

Address

Name

Address

I am providing a list of homes
in my neighborhood with large
accessory buildings / garages.

2293 Marcia Dr.

3950 Barnett Dr

2330 Cornish Ct.

2481 South Linda

4052 Woodedge

2060 South Linda

Thank

John Lucas

2371 Barnett Dr.

Bellbrook OH 45305



**Board of Zoning Appeals/Property Review Commission
Public Hearing Notice
-Request for Variance
#V20-02**

| Date | Time | Location |
|---------------------|----------------|---|
| May 19, 2020 | 6:15 pm | Due to COVID-19 this meeting will be held via Zoom teleconference |

The **Bellbrook Board of Zoning Appeals/Property Review Commission** will hold a public hearing on Variance Case for **2371 Barnett Dr, Bellbrook OH, 45305**. The public is invited to attend via zoom and speak at the hearing.

V20-02- This is a request by John Lucas owner of **2371 Barnett Dr, Bellbrook OH, 45305** to build a 1200 square-foot garage in his rear yard. The request is for a variance from Zoning code **18.05A** which states that *“detached accessory buildings (including garages) constructed on one-family lot shall not exceed in the aggregate, six hundred (600) square feet.”*

Melissa Dodd is inviting you to a scheduled Zoom meeting.
Topic: BZA PRC Meeting
Time: May 19, 2020 06:15 PM Eastern Time

Join Zoom Meeting
<https://us02web.zoom.us/j/87817804953?pwd=Qjl4Ykx4VEhnYTE0eW1CRVRLWWtyZz09>

Meeting ID: 878 1780 4953
Password: 340882

Should any member of the public wish to give their input on the above case but are unable to attend, please feel free to send your input on the case to j.hansen@cityofbellbrook.org or by submitting a written letter to the Board of Zoning Appeals by mailing or dropping it off at **15 E Franklin Street, Bellbrook OH, 45305**. Any input received in writing/email will be given to the board for their review.

Thank you,

Jessica Hansen
Planning & Zoning
City of Bellbrook



CITY OF BELLBROOK

ZONING PERMIT – ACCESSORY BUILDINGS

15 EAST FRANKLIN STREET, BELLBROOK, OHIO 45305
(937) 848-4666 WWW.CITYOFBELLBROOK.ORG

APPLICANT INFORMATION

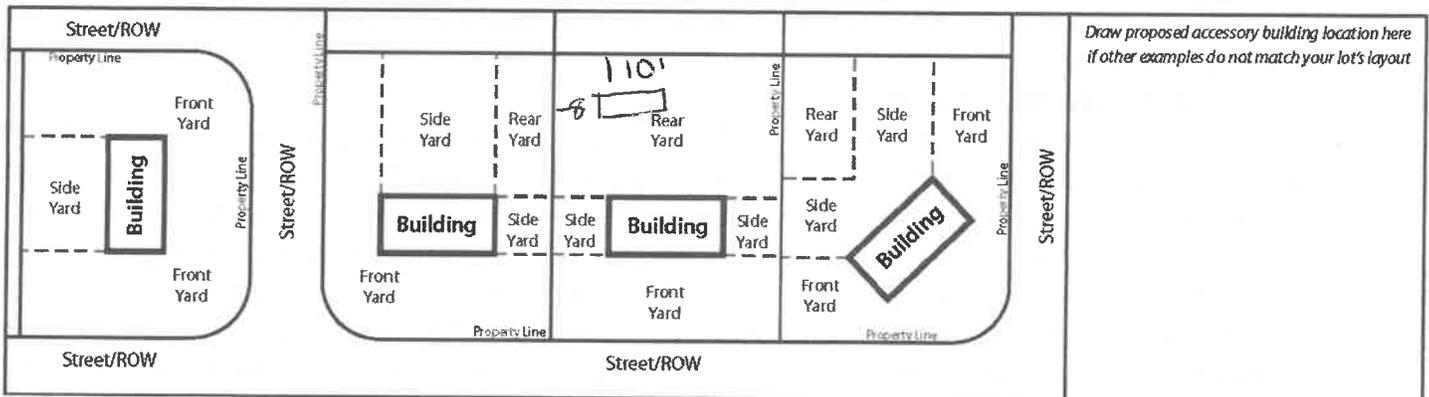
DATE RECEIVED 3 / 9 / 2020 PERMIT # 20-25
 PROPERTY ADDRESS 2371 Barnett Dr ZONING DISTRICT R-1A
 PROPERTY OWNER John Lucas PHONE NUMBER 937-478-8452
 APPLICANT NAME John Lucas PHONE NUMBER 937-478-8452

REQUEST INFORMATION

TYPE OF LOT CORNER INTERIOR OTHER ACCESSORY BUILDING TYPE SHED GARAGE POOL OTHER
 DIMENSIONS OF STRUCTURE HEIGHT _____ WIDTH 30' LENGTH 40' FLOOR AREA 1200 SQUARE FEET
 PROPOSED LOCATION SIDE YARD REAR YARD DISTANCE FROM PROPERTY LINES SIDE YARD 8' REAR YARD 10'
 WIDTH OF RECORDED EASEMENTS ON LOT SIDE YARD _____ REAR YARD 10' PLEASE DENOTE LOCATION ON LOT TYPES BELOW
 PROPOSED USE OF STRUCTURE Garage / storage
 OTHER COMMENTS _____

ANY STRUCTURE EXCEEDING 200 SQUARE FEET IN GROSS FLOOR AREA OR POOL SHALL BE REQUIRED TO OBTAIN A BUILDING PERMIT.

SHOW PROPOSED ACCESSORY BUILDING LOCATION ON CORRESPONDING LOT TYPE



I HEREBY CERTIFY THAT THE INFORMATION AND STATEMENTS GIVEN ON THIS APPLICATION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I UNDERSTAND THAT IF THE INFORMATION IN THIS APPLICATION IS NOT CORRECT OR COMPLETE, ANY PERMIT ISSUED MAY BE INVALID WITH THE RESULT BEING THAT I MAY BE REQUIRED TO TAKE THE ABOVE-DESCRIBED ACCESSORY STRUCTURE DOWN AT MY OWN EXPENSE. ANY APPROVAL GRANTED BY THE CITY SHALL EXPIRE IF THE WORK HAS NOT BEGUN WITHIN ONE (1) YEAR FROM THE DATE OF APPROVAL.

APPLICANT SIGNATURE [Signature] DATE 3 / 9 / 2020

| OFFICE USE ONLY | | |
|---|---|--|
| PERMIT FEE | PAYMENT TYPE | REVIEW AUTHORITY |
| \$ <u>65</u> | CASH <input type="checkbox"/> CHECK <input checked="" type="checkbox"/> # <u>1546</u> | ADMINISTRATIVE <input type="checkbox"/> BZA <input checked="" type="checkbox"/> VRB <input type="checkbox"/> |
| APPROVED <input type="checkbox"/> DENIED <input type="checkbox"/> | STAFF SIGNATURE <u>[Signature]</u> | DATE <u>3 / 9 / 2020</u> |
| APPROVED-CONDITIONS <input type="checkbox"/> | | |

8ft from Side
10 ft from Rear



CITY OF BELLBROOK
APPLICATION FOR ZONING VARIANCE

15 EAST FRANKLIN STREET, BELLBROOK, OHIO 45305
(937) 848-4666 WWW.CITYOFBELLBROOK.ORG

APPLICANT INFORMATION

DATE RECEIVED 3 / 9 / 2020 APPLICATION # VA 20-02
 PROPERTY OWNER John Lucas PHONE NUMBER 937-478-8452
 OWNER ADDRESS 2371 BARNETT DR. Bellbrook OH 45305
 APPLICANT NAME John Lucas PHONE NUMBER 937-478-8452
 APPLICANT ADDRESS 2371 Barnett Dr

REQUEST INFORMATION

PROPERTY ADDRESS 2371 Barnett Dr ZONING DISTRICT R-1A
 SUBDIVISION Rayette 3 All LOT NUMBER 48 PARCEL ID L35000200080003000
 DESCRIBE THE GENERAL NATURE OF THE VARIANCE New Secondary Garage Behind
Home to store classic cars, 30
30' x 40' 10' High 1200 sq Feet

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 3 / 9 / 2020

| OFFICE USE ONLY | | |
|-----------------------------|---|---|
| APPLICATION FEE \$100.00 | PAYMENT TYPE CASH <input type="checkbox"/> CHECK <input checked="" type="checkbox"/> # <u>1590</u> | REVIEW AUTHORITY ADMINISTRATIVE, BOARD OF ZONING APPEALS |
| BOARD OF ZONING APPEALS | MEETING DATE _____ / _____ / _____ | APPROVED <input type="checkbox"/> DENIED <input type="checkbox"/> CONDITIONS <input type="checkbox"/> |

Methods to combat Repeat Property Maintenance Offenders & Dilapidated Buildings

1. The City could increase fines. Sometimes it is cheaper for a property owner to take a fine of \$250.00 than it is to repair the structure. \$250.00 is our maximum fine whereas other cities have higher maximum fines for violations. The City also does not have a repeat offenders policy. While increasing fines will not fix the issue entirely it will perhaps sway some owners to think twice. The City of Kettering for example has the following fine structure:

1321.106.4 Violation Penalties. Whoever is convicted of or pleads guilty to a violation of any provision of this Code, shall be guilty of a misdemeanor and fined not more than five hundred dollars (\$500.00). Any such violation shall be a strict liability offense (malum prohibitum) and no proof of intent shall be necessary. Each day that a violation continues after notice has been served shall be deemed a separate offense.

1321.106.5 Habitual Offender. Any person who commits a violation of this Code, after having previously convicted by the Court on two (2) separate occasions for committing a violation of this Code within a thirty-six (36) month period, shall be guilty of a misdemeanor and shall be fined not more than one thousand dollars (\$1,000.00).

2. Vacant Property Registration: Currently the City of Bellbrook's fee is \$100 once, but this does not cover the amount of work it takes to make sure the structure is compliant with the Property Maintenance Code (PMC). It also only registers vacant properties that have been foreclosed or that are owned by a bank. The Definitions need changed as well as the fees. Here is what the City of Xenia's Fees are to deter vacancy:

| <i>Xenia Code Section</i> | <i>Chapter 1492: Registration of Vacant Commercial and Industrial Buildings</i> | <i>Fee</i> |
|---------------------------|---|---|
| 1492.05 | Initial registration fee | \$400, subject to 50% increase if delinquent |
| 1492.05 | Annual registration renewal fee | \$800 for first renewal; \$1,600 for second renewal; \$3,200 for third renewal; \$6,400 for fourth and all subsequent, consecutive renewals; subject to 50% increase if delinquent; may be reduced or waived pursuant to § 1492.05(d) |

3. We also do not charge per inspection. Often, I inspect a property multiple times in a course of a couple of months. Again, as an example the City of Xenia charges \$100 per inspection.
4. Getting volunteer agencies involved. There are volunteer agencies for veterans, elderly, or even churches, or youth groups, etc. that we could potentially list on our violation letters (with their permission) in an effort to help owners in repairing or coming up with the funds to repair their structures.

Suggested Route:

- Updated Vacant Property Registration Ordinance to be similar in structure to that of Xenia's, update definitions as well.
- Update Property Maintenance Code to be stricter on repeat offenders.
- Update fee structure for violations of PMC.
- Get volunteer agencies involved.