



PLANNING COMMISSION STAFF REPORT

FOR CONSIDERATION BY PLANNING COMMISSION ON SEPTEMBER 28, 2021

Variance Case: V-02-21

APPLICANT: Eileen Cox
4376 Beechmont Drive
Cincinnati, OH 45244

REQUEST: V-02-21 variance request to the Clermont County Subdivision Regulations.

Request to allow the creation of two non-conforming parcels that do not meet the required frontage minimum of 25 ft. and to create a panhandle in excess of 500 ft. in length.

LOCATION: The subject properties (Parcels 413107A055, 413107A035, and 413107A059) are located 100 ft. south of Shepherds Glen Lane on the east side of Shephard Road.

VARIANCE REQUESTED:

The applicant is seeking a variance from the Clermont County Planning Commission for Article V, Section 512 B & D.

Article V, Section 512 B:

B. Each lot shall front (abut) on a public street except lots fronting on private street permitted in Section 509. The normal minimum permissible frontage for any lot in a platted subdivision shall be twenty-five (25) ft.

Article V, Section 512 D:

D. The “panhandle” lot as defined in Section II of these regulations shall have a normal minimum width of twenty-five (25) ft. and shall not exceed five hundred (500) ft. in length when measured from the right-of-way line. The width of the panhandle for a lot in a platted subdivision may be less than the required 25 feet, but only if it can be demonstrated that easements of adequate dimensions are provided for access and utilities and the panhandle would primarily serve to meet the legal frontage requirement.

Article II, Definitions:

Panhandle Lot: a lot that utilizes a narrow strip of land to provide access to or legal frontage on a public street or private street.

Lot Frontage: That portion of a lot forming a common boundary between the lot and an adjoining public right-of-way or private access easement. In the case of corner lots and through lots, all sides of a lot adjacent to the public right-of-way shall be considered as part of the total frontage for those lots.

The applicant has requested a variance from the Clermont County Subdivision Regulations. Within the 711 Transfer application (#328-2021) the applicant's surveyor, John M. Duffy P.S., indicates that Eileen Cox is seeking a variance (#335-2021) to allow the creation of two non-conforming parcels that do not meet the required frontage minimum of 25 ft. and to create a panhandle in excess of 500 ft in length.

The applicant is not requesting to subdivide or to create any new parcels. Moreover, the applicant is requesting that the interior lot lines be resurveyed. Parcel 413107A055 (Tract #1) is currently non-conforming as the property has no legal road frontage. Tract #1 would increase in size from .90 acres to 2.131 acres and is provided 10 ft. of legal frontage while being provided accessed via the existing private shared drive. Parcel 413107A035 (Tract #2) would increase in size from 1.15 acres to 2.643 acres. Tract #2 would be provided 10' ft. of legal road frontage via a 691.76 ft. panhandle that extends around the southern boundary of the properties. Parcel 413107A059 (Tract #3) would decrease from 3.14 acres to .408 acres with 102 ft. of legal road frontage. All proposed tracts will maintain the same private shared access easement from Shephard Road.

STAFF ANALYSIS:

Article IX, Section 908:

A Variance(s) may be granted when the applicant can demonstrate to the Planning Commission each of the following:

- 1. The particular physical surroundings, environmental constraints, shape, topographical, or other exceptional conditions of the specific property involved would cause extraordinary hardship or exceptional practical difficulty to the applicant if the provisions of these regulations were strictly enforced.*
- 2. The granting of the variation will not be detrimental to the public health, safety, the intent and purpose of these regulations, to the desirable development of the neighborhood or community. To the general welfare, or to other property or improvements in the neighborhood in which the property is located.*
- 3. The special circumstances or conditions are created by the provisions or requirements of these regulations and not the result of any act of the applicant.*
- 4. The variation requested is the minimum adjustment necessary to mitigate the hardship brought by these regulations.*

The Clermont County Planning Commission has approved minor variances to Article V, Section 512 B & D so long as the request is the minimum adjustment necessary to mitigate the hardship brought by these regulations and that no concerns were raised by County or Township reviewing agencies.

Previous Variance Cases: Article V, Section 512 B & D

- *V-01-05: (Panhandle Length 719.27 ft. & 7.5 ft. legal road frontage)*
- *V-01-20: (Panhandle Length 817.83 ft.)*

Staff concludes the request does appear to be the minimum amount necessary to mitigate the hardship imposed upon the applicant due to the existing site characteristics. In fact, the applicant has partially rectified the situation by obtaining legal frontage for an otherwise landlocked parcel. Moreover, the existing shared access easement will continue to provide access to all three parcels.

The panhandle length requirement would not be detrimental in the sense that the shared driveway serving the properties is already established, and the land configuration in the immediate vicinity is somewhat irregular in character. The regulations, if strictly interpreted, would deny these property owners the same rights as afforded to others in the area because the original subdivider created a land configuration in a “regulatory vacuum.”

Finally, the request would not be detrimental to the public health or general welfare in that the revised survey and existing easement and provided maintenance agreement provides a legal basis for all owners utilizing the shared drive. The planning staff has not received any concerns from Clermont County’s reviewing agencies or Union Township.

STAFF FINDINGS:

1. The variation from these regulations would not pose a significant threat, nor be detrimental to the public health, safety, or desirable development of the existing community, and will result in a benefit to the immediate residents because it would the drafting of a formal maintenance agreement for the legal recorded easement.
2. The special circumstances leading to the request for this variance are in no way attributable, nor a result of, any direct action taken by the applicant.
3. The granting of this variance would grant the applicant the same rights afforded to other property owners in Clermont County because the previous subdivider created the hardship in a regulatory vacuum.
4. The requested variance is the minimum adjustment necessary to mitigate the hardship imposed by the Subdivision Regulations and would permit the applicant a full and reasonable use of the land.
5. Without any objections from Union Township, staff believes the variance request to be justified.

STAFF RECOMMENDATION:

Based on Staff Analysis, move to **APPROVE** the variance case V-02-21 to allow the creation of two non-conforming parcels that do not meet the required frontage minimum of 25 ft. and to create a panhandle in excess of 500 ft in length., based upon the following conditions:

1. The applicant shall provide appropriate documentation of a written, legally binding formal maintenance agreement between all property owners utilizing the existing shared ingress/egress easement. This agreement shall be produced before the issuance of approval for the 711 Transfer.