



CLERMONT COUNTY OHIO PLANNING COMMISSION STAFF REPORT

FOR CONSIDERATION BY PLANNING COMMISSION ON NOVEMBER 23, 2021

Variance Case: V-04-21

APPLICANT: William Doan Jr.
6691 Wood Street
Goshen, OH 45122

REQUEST: V-04-21 variance request to the Clermont County Subdivision Regulations.

Requesting approval of a variance from the Clermont County Subdivision Regulations: Article V, Section 512 B, to allow the creation of two non-conforming parcels that do not meet the required frontage minimum of 25 ft.

LOCATION: The subject properties (Parcels 114337.015B, 114337.016B, 114337.015C, and 114337.016C) located on the southeast side of O'Bannonville Road with addresses of 1418 & 1422 O'Bannonville Road, Goshen, OH 45140.

VARIANCE REQUESTED:

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

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 II, Definitions:

***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. Per the application (#334-2021) the applicant's surveyor, Eric N. Lutz, P.S., indicates that William Doan is seeking a variance for plan #334-2021 to allow the creation of two non-conforming parcels that do not meet the required frontage minimum of 25 ft.

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. Parcels 114337.016B, 114337.015C, and 114337.016C are currently existing non-conforming parcels as these properties have no legal road frontage. Parcel 114337.015B is also an existing non-conforming parcel with 12.58 ft. of legal road frontage. There are also instances of parcel lines that run through existing structures.

The submitted application (#334-2021) proposes consolidate parcels 114337.015B, 114337.016B, 114337.015C, and 114337.016C into two new lots, (Tract #1 .500 acres & Tract #2 1.2210 acres). This would resolve the issue with the property line running through the existing structure and would allow both structures to have individual deeds.

Existing site conditions only provide 12.48 ft. of legal road frontage to parcel 114337.015B, it is unfeasible to provide the required 25 ft. of legal road frontage for the proposed parcel.

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 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

- *V-01-05: (7.5 ft. legal road frontage)*
- *V-02-21: (10 ft. legal road frontage)*

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 eliminating a property line that runs through an existing structure. Moreover, the existing shared access easement will continue to provide access to both residences.

The lack of legal road frontage for proposed Tract 2 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 with existing easement and the addition of a maintenance agreement provides a legal basis for all owners utilizing the shared drive.

No concerns have been received from Clermont County’s reviewing agencies or Goshen 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 due to the drafting of a formal maintenance agreement for the legal recorded shared 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 Goshen Township, staff believes the variance request to be justified.

STAFF RECOMMENDATION:

Based on Staff Analysis, move to **APPROVE** the variance case V-04-21 to allow the creation of two non-conforming parcels that will not meet the required legal road frontage minimum of 25 ft., 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 application plan #334-2021.