

MEMORANDUM

TO: Members of the Board of Zoning Appeals
FROM: Brent N. Damman, Zoning Administrator *BND*
SUBJECT: Side & rear yard setback variance @ 901 Lynne Ave.

HEARING DATE: November 11, 1997 at 4:30 PM
HEARING #: BZA 97/02

BACKGROUND

An application for variance has been filed by Charles T. Riley 901 Lynne Ave. Napoleon, Ohio. The applicant is requesting a side & rear yard building setback reduction for the placement of a utility shed. The variance request is to City Code section 1133.04 (d). The property is located in an R-2 Residential Zoning District.

RESEARCH AND FINDINGS

1. When Mr. Riley moved to his home there was an existing utility shed in the S/E corner of his property which was not compliant with setbacks. He assumed that the new building he had purchased could be placed in the same location, so he did. I happened onto the site as the new building was being constructed and placed a stop work order on it.
2. Mr. Riley contacted me and explained he was not in agreement with the setbacks and requested a variance to the requirements. He would like to place his shed 3 feet from the side and 3 feet from the rear property lines.
3. In the last 7.5 years I have had numerous complaints about the setback requirements for portable utility sheds. In 1995 with the adoption of the new City Zoning Code, the side yard setback for accessory buildings was increased from 5 feet to 7 feet. No consideration was given to portable sheds.
4. After this hearing today I will present the attached proposed portable shed setback changes to the Planning Commission for their consideration. The proposal is to reduce the side yard setback from 7 feet to 5 feet and the rear yard setback from 10 feet to 5 feet.

ADMINISTRATIVE OPINION

I am recommending that a variance be granted which would allow Mr. Riley to place his shed 5 feet from the side and 5 feet from the rear property line. I believe that five feet is a minimum maintenance space.

CONSIDERATIONS

The Board shall not render a decision on this request until it has reviewed the following standards for variation.

The standards for variation to be considered are as follows:

- (a) That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to the other property or use in the same vicinity or district.
- (b) That such Variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity or district but which is denied to the property in question.
- (c) That the granting of such Variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity or district in which the property is located.
- (d) That the granting of such a Variance will not alter the land use characteristics of the vicinity or district, diminish the value of adjacent land and improvements or increase the congestion in the public streets.