

## MEMORANDUM

TO: Members of the Board of Zoning Appeals  
FROM: Brent N. Damman, Zoning Administrator  
SUBJECT: Variance to east side yard setback at 416 W. Washington St.  
HEARING DATE: November 8th, 1994 at 4:30 PM  
HEARING #: BZA 94/12

## BACKGROUND

An application by Jeffrey P. Pflum 416 W. Washington Napoleon, Ohio (owner), requesting Variance to the east side yard setback for the purpose of constructing a basketball goal. The Variance request is to section 151.34 (D,1) of the City of Napoleon Ohio Code of General Ordinances, and is located in an "B" Residential Zoning District.

## RESEARCH AND FINDINGS

1. The owner has erected a basketball goal on the east side property line for which a building permit is not required.
2. There is a minimum side yard setback of five (5) feet in this "B" residential zoning district. This applies to accessory uses as well as principle uses.
3. A basketball goal is considered an accessory use which requires a minimum side yard setback of five (5) feet.

## ADMINISTRATIVE OPINION

I believe Mr. Pflum should have given more consideration to his neighbor, when he placed the goal in its current location.

However, had Mr. Pflum placed the goal on the same north/south alignment and simply moved it west five (5) feet to comply with the side yard setback requirement, I do not believe it would be any less of an impact to his neighbor nor would his complaint be any less.

I also believe this situation to be more of a civil matter and a typical example of neighbors who are incompatible with each other.

## 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 of district, diminish the value of adjacent land and improvements or increase the congestion in the public streets.

