

City of Napoleon, Ohio

## BOARD OF ZONING APPEALS

Meeting Agenda

Tuesday, October 13, 2020 at 4:30 pm

BZA 20-04 – Variance to Property Setbacks – Lots 85 & 86 Williamsburg Avenue

BZA 20-05 – Variance to Property -1020 Westmorland Avenue

BZA 20-06 - Variance to Building Setbacks - 105 Vincennes Drive

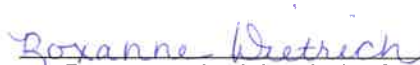
LOCATION: Council Chambers, 255 West Riverview Avenue, Napoleon, Ohio

Webex details will be posted at [www.napoleonohio.com](http://www.napoleonohio.com)

1. Call to Order
2. Approval of Minutes – September 08, 2020. *(In the absence of any corrections or objections, the Minutes shall stand approved)*
3. **Old Business**
  - BZA 20-04 – Variance to Front and Side Setbacks (Tabled)

An application for a Public Hearing has been filed by Kyle VonDeylen of 19-901 Co. Rd. X, Ridgeville Corners, Ohio 43555. The applicant is requesting a variance to Section 1147 regarding the building setbacks in an R-1 Suburban Residential District for the development of moderate and low-density, single family residential development and is adaptable to urban or suburban locations, located at Lot 86 of Williamsburg Avenue, Napoleon, Ohio 43545. The applicant is requesting the variance to reduce the front building setback from 70' feet from the center of the roadway to 60' and the side setback from Lot 85 Williamsburg Avenue from 15' to 10'.
4. **New Business**
  - BZA 20-05 -Variance to Property at 1020 Westmoreland Avenue
    1. An application for Public Hearing has been filed by Brooke Gray, 1020 Westmorland Avenue, Napoleon, Ohio. The applicant is requesting approval of a variance to Section 1131.01 Residential Districts Established/General Prohibitions in an R-3 Moderate-Density Residential District. The Applicant is requesting the variance to place an additional 50'x60' Accessory Building.
    2. BZA 20-06 – Variance to Building Setbacks – 105 Vincennes Drive

An application for Public Hearing has been filed by David Spencer, 105 Vincennes Dr., Napoleon, Ohio. The applicant is requesting approval of a variance to Section 1147 regarding Building Setbacks in an R-2 Low-Density Residential District. The Applicant is requesting a variance to the backyard setback from 10 feet to 2 feet, to build a 16'x10' shed that is less than 200 square feet.
4. Closing Remarks.
5. Adjournment.

  
Roxanne Dietrich, Clerk of Council

*City of Napoleon, Ohio*  
**BOARD OF ZONING APPEALS MEETING MINUTES**  
Tuesday, September 08, 2020 at 4:30 pm

BZA 20-04 – Lot 86 Williamsburg Avenue – Variance to Building Setbacks

**PRESENT**

Board Members	Tom Mack-Chair, David Dill, Lynn Rausch, Larry Vocke, Steve Small-via WebEx
City Staff	Kevin Schultheis-Code Enforcement/Zoning Administrator Joel Mazur-City Manager
Clerk of Council	Roxanne Dietrich

**ABSENT**

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**CALL TO ORDER**

Chairman Mack called the meeting to order at 4:30 pm with a roll call. All members were present.

**APPROVAL OF MINUTES**

Hearing no objections or corrections, the minutes from the July 14, 2020 Board of Zoning Appeals meeting were approved as presented.

**BZA 20-04 BACKGROUND**

Mack read the background on BZA 20-04, an application for a Public Hearing has been filed by Kyle VonDeylen of 19-901 Co. Rd. X, Ridgeville Corners, Ohio. The applicant is requesting a variance to Section 1147 regarding the building setbacks in an R-1 Suburban Residential District for the development of moderate and low-density, single family residential development and is adaptable to urban or suburban locations, located at Lot 86 of Williamsburg Avenue, Napoleon, Ohio. The applicant is requesting the variance to reduce the front building setback from 70' feet from the center of the roadway to 60' and the side setback from Lot 85 Williamsburg Avenue from 15' to 10'.

**RESEARCH AND FINDINGS**

Schultheis presented his research and findings: Upon approval of this variance and issuance of a zoning permit, a building permit from Wood County Building Inspection shall be required followed by a Certificate of Occupancy. He then read the standards for a variance

(a) there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that does not apply generally to the other property or use in the same vicinity or district,

(b) such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same vicinity or district but which is denied to the property in question,

(c) granting 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 and,

(d) granting such variance will not alter the land use characteristics of the vicinity or district, diminish the value of adjacent land and improvements, to increase the congestion in the public street.

The property owner is asking for a variance from 70' to 60' and then from 15' to 10'. There are two separate layouts of the house. This lot is a pie shaped parcel. The one concern I have is what appears to be closest to the property line in the far southeast corner. I'm not sure, but it appears to be the overhang of the house. The Codified Ordinance says it shall be no more than 36" out from the residence or impede on the other person's property. Rausch commented he cannot move that house back very

much or he will be down to 3'. Schultheis said he would be at 10' 8". Rausch noted then he won't have any backyard. Schultheis said it shows here he has 48' 10" to the back property line. Mack asked if Schultheis has heard anything from the house next to this parcel? Schultheis replied no. After much debate on Friday, I did not get any further responses from any of the neighbors, they are leaving it up to the Board of Zoning Appeals. The second layout, is called *Iriquois*. This is the one VonDeylen favors for the house and it appears to be set better. There is 63' in the back, 18' on the southwest corner and the corner would be 10' off the property line. If we have to pick one, this would be the best. Schulthies stated VonDeylen is asking for a variance. I informed him the Board of Zoning Appeals may approve one but not the other. Mack asked this is the one he will need the front yard setback approval or does he need front yard on both? Schultheis replied front on both. Rausch asked what is the dimension on the second one from the centerline? Dill noted it was 40', they are both 40'. Rausch said then, you have 60' total. Dill stated 70' is required from the middle of the road. Rausch said the problem with this type of lot is, you have a hard time finding a house plan that will fit and meet all the setbacks. Schultheis said there are no plans for an extension on that part of the subdivision, that was the last lot for sale. Mack asked there are two more lots on the cul-de-sac that houses have not been built on? Schultheis said both houses have been built. Rausch noted one of the problems is they have to put up a house that matches the homes in that development. Mazur said there are design standards for that neighborhood. Mack asked if they could extend the road? Mazur answered they could. That cul-de-sac is only gravel. This is the last lot not developed. There are talks of developing this acreage, however, that would require an extension of Sedward and a connection of Joliette, which is in the works. Schultheis noted VonDeylen stated in his letter that down the road a pool could be included in the backyard. I think he has enough property there, he will have to stay 5' off the back property line for the utility easement. Small said it looks like both house plans as they are laid out on the property, appear to show that the house is sitting 40' back from the sidewalk. My question is, is the front variance is needed? He asked for it be reduced to 30' from the back of the sidewalk, but am I reading it correctly, on the plans it looks like it is already 40'? Schultheis said that is what it appears to me. Mazur said there is a 40' line and there is an additional 9'10" line. Schultheis said that is from the property line and then another additional 20' to the center of the road. Small commented neither of these house plans show breaching that 40' front setback. Mazur said the *Iriquois* would be 46'11". Small noted that is in favor of the zoning not encroaching it. Dill said if that is the only variance he wants my opinion would be, it wouldn't matter what he puts on there as long as he stayed within that parameter. Rausch said another issue I see is if he moves the house back to meet the setbacks, that will shorten his backyard up and he probably is not going to be able to put a pool in in the future. Schultheis said Erie is 48' then you need to take off 5' or 10' for the easements in the back. The problem is, he would have to access the house probably on the southwest corner. Small said both of these drawings appear to make it look like the house is at least 40' from the sidewalk, is that correct? Mazur replied *correct*. Small asked 40' from the back of the sidewalk would make it 60' from the center of the road, correct? Schultheis replied *yes*. Rausch said it is actually more than 40', it's about 45' at the corners. Small said so, if it is at least 40' from the back of the sidewalk, is a front variance necessary? Schultheis/Mazur *no*. Dill said if it is under 70' from the center of the road, it will need a variance. That drawing is under the 70', so it needs a variance. Mack asked Mazur are you saying they are only couple feet away from the 70'? Dill said we never gave that house next to it a variance that I know of. The problem is, this house is on a curve and it is going to pick up both corners and they will be closer than the center of the house. Mack asked what side yard is he asking for the setback? Schultheis stated side yards are to be 15' and he is asking for 10'. Mack said so, he wants a setback on the side that is constructed or on the other side? Schultheis replied both. Mack confirmed he wants a variance on both sides of the lot? Dill said it looks like he is putting the house in the middle of the lot so the sides would be equal on both sides. Schultheis said the one plan is more off to the southeast, with the garage located on the right side of the cul-de-sac. He still has

plenty of room. Rausch noted he cannot move it back at all, he is already right there. Mazur said he is asking for a variance on both plans so we can make a decision on which one he wants to build. Mack asked Mazur, you are saying he is asking for a 10' variance on both sides, but he does not need it? Schultheis said he does not need it, the only one he would need Mack interjected he is asking for 10' in the front and 5' on the sides. Mazur – yes. Small said the Iriquois design would require a variance on both sides. Vocke asked if there are any other pie-shaped lots out there that have houses on them now? Another way of looking at this, this person has a house plan that is too big for that lot. Mazur said he is trying to balance meeting the design standards and house size for that neighborhood. Vocke's concern is, are we setting a precedent with this or has this already been done many times before as far as variances? Mazur responded if you are asking me, I think a lot of this stuff has been done already. Dill noted he has never done something on a new build like this, per se. I'm not against it. What I'm saying is, we have done a lot of variances on old homes because the regulations were put in after they were built so they were all out of code to begin with. The whole city almost every street is out of code. Mack said he called Schultheis earlier to ask if there ever was any variance out there. Schultheis said he could not find any for out there. Rausch noted when they have cul-de-sacs and you develop a property, you are going to have this. There is always going to be two or three lots on the cul-de-sac that are going to be shaped like that and you are going to have this issue every time, there is no way to avoid it. Rausch said he has more square footage and ground there but it appears he does not have that large of a lot, it goes back to nothing in the back. Mazur said it does not appear the front is the issue. Rausch commented, I personally don't think it is going to be an issue, it is the last lot in the cul-de-sac. Vocke said he concurs with that but, I just don't know if this will open a can of worms for other stuff or not. Dill said it always does when you have a variance. There is always a repercussion theoretically. It's like the goat thing, that woman could have been the best care taker of animals there is, but we have to consider the whole city. Small said he does not have a problem with the 10' setback on the sides, my only question is if the front setback is needed. From what he has given us here, it appears to fall in conformance based on these drawings. Dill said he needs 10' in the front from the street to be within 70'. He needs a 10' variance on that'. Small noted VonDeylen says that in his letter, but his drawings do not show that. His drawings are clearly at least 70' back from the center of the road. Rausch said it was under 70', it was about 60'. Small asked to have someone clarify what the distance is from the back of the sidewalk to the front of the house, what it should be. Schultheis said it should be 40'. Small said and both of these plans show the house at least 40' back from the sidewalk. Again, my question is, why do we need a variance on the front? Mazur if you go 30' from the center of the road, 30' to the property line and it is 40' to the next one, there is an extra 6' for the first one. Small said from the back of the sidewalk to where they can build is 40' and both of these plans are beyond that by a number of feet. What I would ask is what is the reason for the front variance if he is not going to move them forward, I don't think he would need a front variance. Dill asked the back of the sidewalk to the center of the road is 30'? Mazur- yes. Dill so that is 70' right to that next dotted line. Rausch noted he is asking for 60'. Vocke said he wants a bigger pool. Small said that is what I'm thinking, once he saw these plans, does he want to shift it forward? Based on what he gave us, there is not a need for a front variance. Mazur said the answer is whoever it is, did not submit the proper plans, these are the plans we have to go off of and he is requesting a variance based on what he has submitted, so whatever is approved or not approved, is based off of what is submitted. What they submitted is asking for a 5' variance off the sides to fit those two corners inside. What is the backyard requirement, are we covered on that one? Schultheis said he has plenty of room in there. Rausch said the ways those plans are set out, you don't need any variances at all, am I correct? Dill noted you need the 5'. The other question is, if he moves that house up, what might be his intent be, he might not need the side yard setbacks. It's too bad he is not here. Mack said you can't issue a building permit on that anyhow. If we approved it, he would have to bring you another drawing. Schultheis said yes, he is going to have to submit a

drawing to us for a site plan review and from there it goes to Wood County. Rausch confirmed with this set of drawings, all we are approving today are the two side setbacks, everything is fine on the front. If he wants to move that house forward, the side setbacks are not going to be an issue. At this point and time, all we can do is approve the side setbacks. Mazur referred back to VonDeylen's letter where it says, after meeting with three different builders, he is asking for a front setback to 60' from the center of the road and 10' off the sides. Mack asked he is asking for 10' off both sides? Schultheis said he is asking for 5'. Small noted he does address that at the bottom of his letter, it says *he is putting in a garage that is not on these drawings yet. The 30' front setback is to allow for a three car side entry garage with the third bay being closer to the road than the main body of the home.* The garage is not reflected on the drawings. Mazur informed the board, you can approve it as shown on the sketches or you can table it and schedule another meeting to have him come in and elaborate a little more. If someone is looking for a variance, you would think he would have some representation here. Vocke said to have him provide an up-to-date drawing of what he wants to build. Mack said there is enough confusion, I would rather table this until he brings us definite plans of what he wants to do. Rausch added I would like to see the set of plans they are going to build the house on, the drawing showing the setbacks all the way around with a garage on there. It is hard to approve something you cannot see what they are going to do.

Motion: Dill  
to table BZA 20-04 until more information is available

Second: Rausch

Roll call vote on the above motion:  
Yea-Rausch, Dill, Vocke, Mack, Small  
Nay-  
**Yea-5, Nay-0. Motion Passed.**

**ADJOURNMENT**

Motion: Dill  
to adjourn the Board of Zoning Appeals meeting at 5:13 pm

Second: Vocke

Roll call vote on the above motion:  
Yea-Rausch, Dill, Vocke, Mack, Small  
Nay-  
**Yea-5, Nay-0. Motion Passed.**

**Approved**

October 13, 2020

\_\_\_\_\_  
Tom Mack, Chairman



# City of Napoleon, Ohio

## Kevin Schultheis, Zoning Admin.

### Code Enforcement

255 West Riverview  
Napoleon, OH 43545  
Telephone: (419) 592-4010 Fax: (419) 599-8393  
www.napoleonohio.com

JULY 21, 2020

**TO:** MEMBERS OF THE BOARD OF ZONING APPEALS  
**FROM:** KEVIN SCHULTHEIS, ZONING ADMINISTRATOR/ CODE ENFORCEMENT OFFICER  
**SUBJECT:** VARIANCE TO THE FRONT AND SIDE SETBACKS  
**MEETING DATE:** SEPTEMBER 8, 2020 @ 4:30 PM.  
**HEARING NUMBER:** BZA-20-04

#### **Background:**

An application for a public hearing has been filed by Kyle Vondeylen of 19-901- Cr. X Ridgeville, Ohio 43555. The applicant is requesting a variance to Section 1147 regarding the building setbacks in an R-1 Suburban Residential District provides for the development of moderate and low-density, single family residential development, and is adaptable to urban or suburban locations, located at lot 86 of Williamsburg Ave. Napoleon, Ohio 43545. The applicant is requesting the variance to reduce the front building set back from 70' feet from center of the roadway to 60' and the side set back from Lot 85 Williamsburg Ave. from 15' to 10'.

#### **Research and Findings:**

Upon approval of this variance and issuance of a zoning permit, a building permit from Wood County Building Inspection shall be required followed by a Certificate of Occupancy.

#### **Standards for a Variance:**

The Board, after a hearing may grant a variation from the regulations of the City's Planning and Zoning Code, but only when such variation is in harmony with General purpose and intent of the Planning and Zoning, and the board finds the following:

- (a) That there are exceptional or extraordinary circumstances or conditions applicable to the 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 granting such variance will not be materially detrimental to the public welfare or injurious to the property of improvements in the vicinity or district in which the property is located;
- (d) That granting such variance will not alter the land use characteristics of the vicinity or district, diminish the value of adjacent land and improvements, ot increase the congestion in the public street. (Ord. 69-01. Passed 7-2-01.)



# City of Napoleon, Ohio

## Code Enforcement

*Kevin Schultheis, Inspector/Zoning Administrator*

*255 West Riverview Avenue*

*Napoleon, OH 43545*

*Telephone: (419) 592-4010 Fax: (419) 599-8393*

*www.napoleonohio.com*

**BZA-20-05**

**Variance to Additional Accessory Building**

**Location: 1020 Westmorland Ave.**

### **Memorandum**

**To:** Members of the Board and Zoning Commission

**From:** Kevin L. Schultheis, Zoning Administrator/Code Enforcement Officer

**Subject:** Variance to the Property Additional Accessory Building

**Meeting Date:** October 13, 2020 @ 4:30 PM

**Hearing #:** BZA-20-05

### **Background:**

1. An application for public hearing has been filed by Brooke Gray, 1020 Westmorland Ave. Napoleon, Ohio 43545. The applicant is requesting approval for a variance to section 1131.01 Residential Districts Established / General Prohibitions in an R-3 Moderate-Density Residential District.
2. (e) Prohibitions in All Residential Zoning Districts- The Following are prohibited in all residential zoning districts.
3. (5) Accessory buildings are allowed to be constructed on any residentially zoned building lot subject to the following provisions:
4. A. No more than two accessory buildings or structures with a combined gross floor area of 1000 square feet shall be allowed on a residentially zoned building lot; and,
5. B. Accessory buildings and structures are subject to other zoning regulations applicable to the district in which they are located.

The Applicant is requesting a variance to place an additional accessory building measuring 50' x 60' for a total of 3,000 square feet.

## **Research and Findings**

1. A variance is needed to allow additional storage and garage space. The structure to be placed on the land owned by Brooke Gray of 1020 Westmorland Ave. that would accommodate boats, lawnmowers and other items needing to be stored inside. The first accessory building is considered a pool house, which is located inside a permanent fence with limited access from the outside, along with limited storage space.
2. Verified by the Zoning Administrator, enough ground is available and accessible for the existing property per the R-3 residential land percentages. The building would or exceed all set back requirements regulated by the City of Napoleon and will not impair or adversely affect the value of neighboring properties.
3. Scope of Project: (see attached)

## **Standards for a Variance**

The board, after a hearing, may grant a variation from the regulations of the City's Planning and Zoning Code, but only when such variation is in harmony with the general purpose and intent of the Planning and Zoning Code, and the Board finds all of the following:

- (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 the property in question.
- (c) That granting such variance will not be materially detrimental to the public welfare or injurious to the property of improvement in the vicinity or district in which the property is located;
- (d) That granting such variance will not alter the land used characteristics of the vicinity or district, diminish the value of the adjacent land and improvements, or increase the congestion in the public street. (Ord. 69-01. Passed 7-2-01)



# Application for Public Hearing

## City of Napoleon, Ohio

I/We hereby request a public hearing to consider the following:

**Planning Commission**

(MZON 100.1700.46690)

- Conditional Use  
**\$125.00**
- Amendment  
**\$125.00**
- Subdivision in City  
**\$75.00 + \$5.00 each, after two**
- Preliminary Plat of Development  
**\$125.00**
- Alley Vacation  
**\$25.00 + publication cost**

**Preservation Commission**

(MZON 100.1700.46690)

- Certificate of Appropriateness  
**\$25.00**

**Board of Zoning Appeals**

(MZON 100.1700.46690)

- Certificate of Zoning  
**\$25.00**
- Re-Zoning  
**\$125.00**
- Variance  
**\$125.00**
- Administrative Appeal  
**\$50.00**

Address of property: 1010 Westmoreland Ave. Napoleon, OH 43545

Description of request:

Requesting a variance to be Allowed For additional Storage/Garage Structure  
To be place on the land. The first accessory building is Considered a pool House  
by Limited access sitting inside a fence. The building would be on Exceed  
All set back Rules Regulated and will not impair or adversely affect value of  
Brooke Gray Neighboring Properties

OWNER(S) NAME (PRINT)

1010 Westmoreland Ave. Napoleon, OH 43545

ADDRESS- CITY, STATE, ZIP

419-966-1161

PHONE NUMBER

SIGNATURE

**\*\*\*Public hearings are held on the second Tuesday of each month; this petition must be filed with the Zoning Administrator thirty (30) days before the public hearing date. All plans, plats, deeds and other requested information must accompany this application before the hearing will be scheduled.\*\*\***

**APPLICANT MUST BE AN OWNER OR AN AUTHORIZED REPRESENTATIVE EVIDENCED BY LETTER OF APPOINTMENT.**

Brooke Gray

APPLICANT NAME (PRINT)

APPLICANT SIGNATURE

1010 Westmoreland Ave

ADDRESS

Napoleon, OH 43545

CITY, STATE, ZIP

419-966-1161

PHONE

Hearing #: \_\_\_\_\_

Hearing Date: \_\_\_\_\_

Zoning District: \_\_\_\_\_

**Office Use Only**

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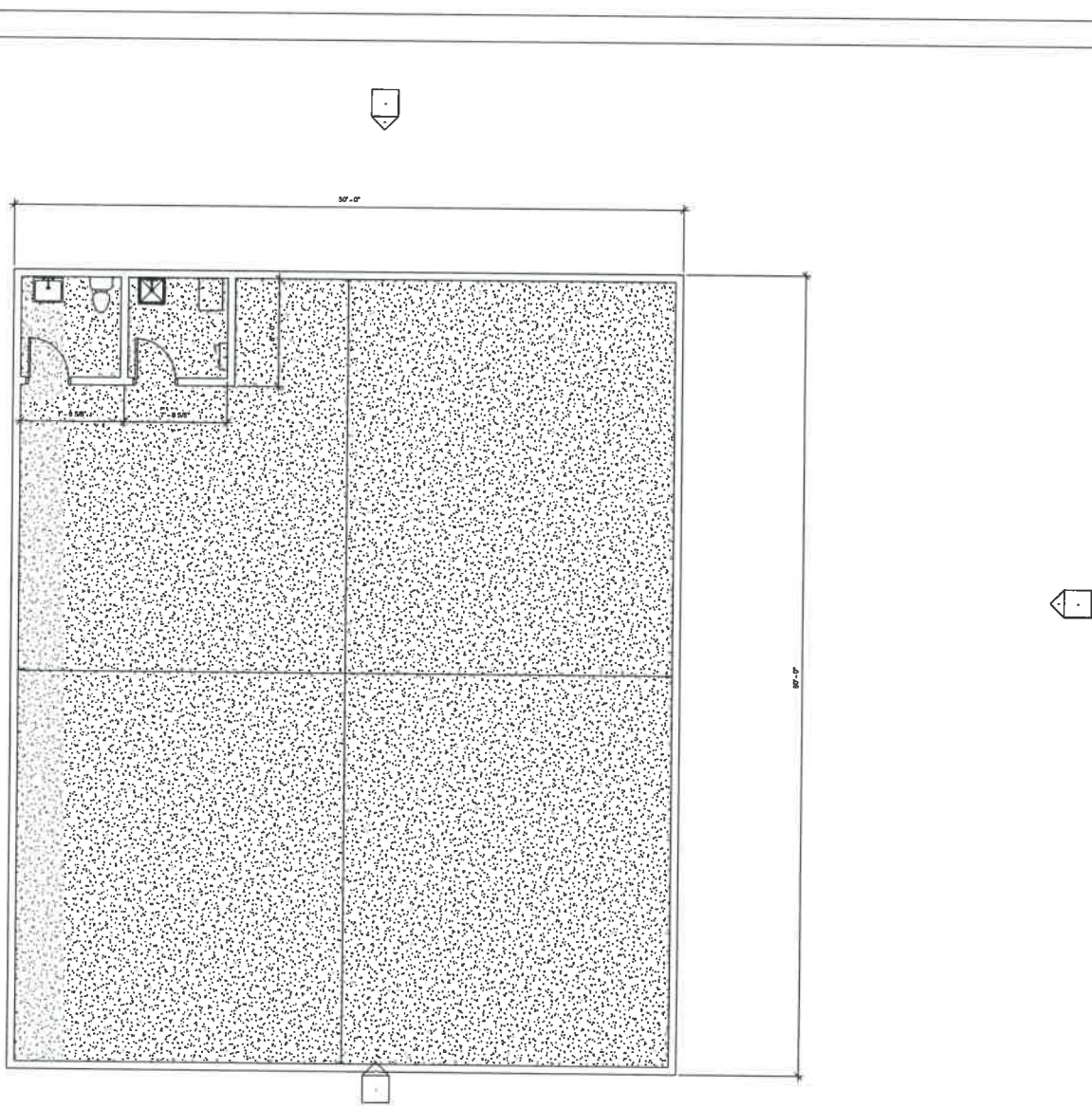
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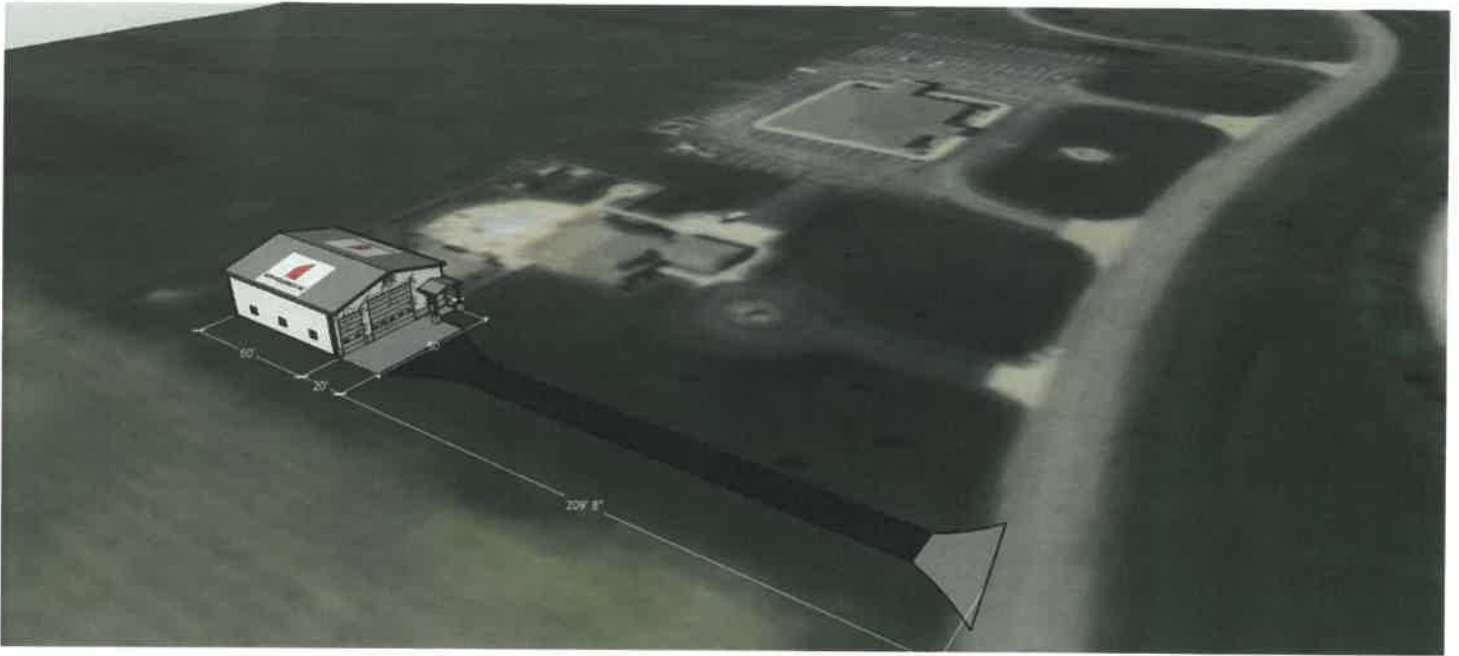
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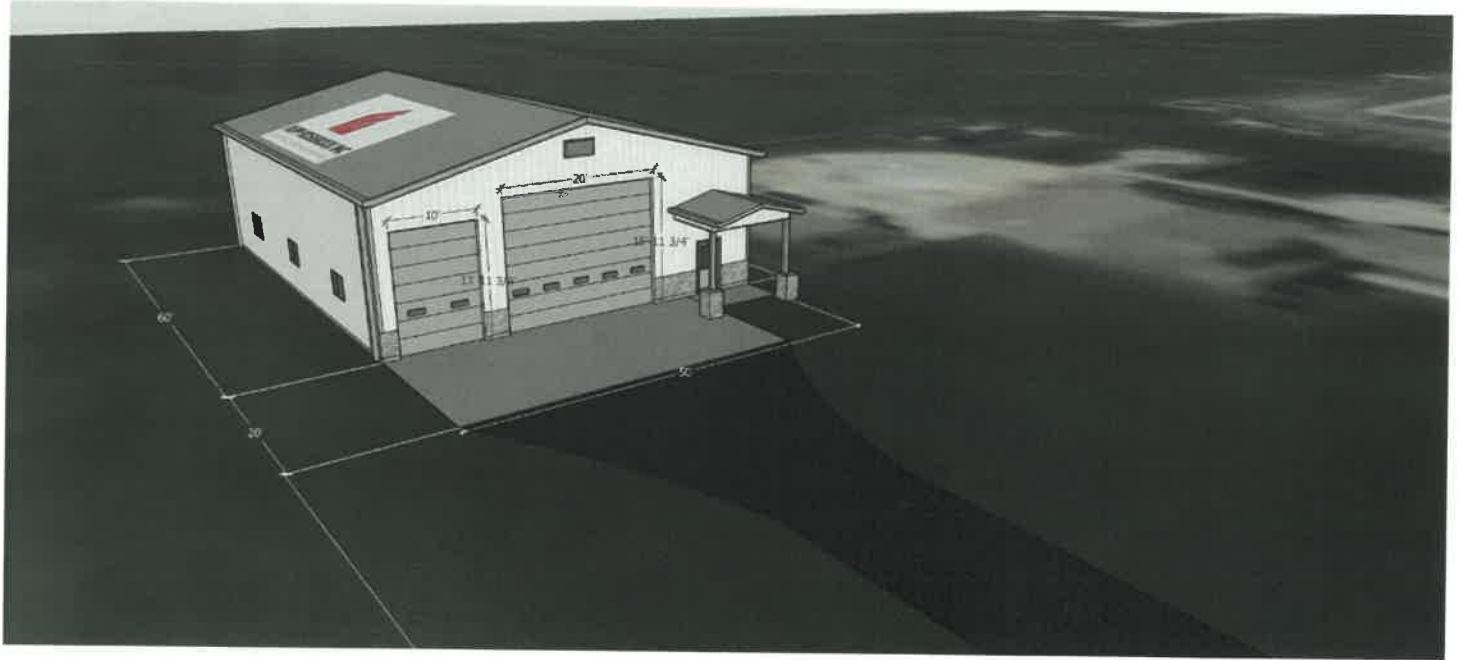
**Brooke Gray  
Shop  
First Floor Plan**

Project number	Project Number
Date	Issue Date
Drawn by	D. Tustin/Vine
Checked by	J. Smith
<b>A1</b>	
Scale	1/4" = 1'-0"

① First Floor  
1/4" = 1'-0"













# City of Napoleon, Ohio

## Code Enforcement

Kevin Schultheis, Inspector/Zoning Administrator

255 West Riverview Avenue

Napoleon, OH 43545

Telephone: (419) 592-4010 Fax: (419) 599-8393

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BZA-20-06

Variance to the Property Setback

Location: 105 Vincennes Dr.

### Memorandum

**To:** Members of the Board and Zoning Commission

**From:** Kevin L. Schultheis, Zoning Administrator/Code Enforcement Officer

**Subject:** Variance to the Property Setback

**Meeting Date:** October 13, 2020 4:30 PM

**Hearing #:** BZA-20-06

### Background:

An application for public hearing has been filed by David Spencer, 105 Vincennes Dr., Napoleon, Ohio 43545. The applicant is requesting approval a variance to section 1147 regarding the building setbacks in an R-2 Low-Density Residential District. The Applicant is requesting a variance to the back yard setback from 10 feet to 2 ft., to build a 16'x 10' shed, less than 200 square feet.

### Research and Findings

1. A variance is needed to allow the shed to move inside the set back requirement of 10 feet of the property line. The move would create a better space.
2. Scope of Project: (see attached)

### Standards for a Variance

The board, after a hearing, may grant a variation from the regulations of the City's Planning and Zoning Code, but only when such variation is in harmony with the general purpose and intent of the Planning and Zoning Code, and the Board finds all of the following:

- (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 the property in question.
- (c) That granting such variance will not be materially detrimental to the public welfare or injurious to the property of improvement in the vicinity or district in which the property is located;

- (d) That granting such variance will not alter the land used characteristics of the vicinity or district, diminish the value of the adjacent land and improvements, or increase the congestion in the public street. (Ord. 69-01. Passed 7-2-01)