

BOARD OF ZONING APPEALS MEETING
November 28, 2023
7:00 P.M.

I CALL MEETING TO ORDER

Meeting called to order by Chairman Anderson.

II ROLL CALL

Members Present: Carolyn Ghantous, David Gleaves, Doug Stahlgren, Tom Hall, Dave Nienaber, Jeffrey Anderson

Staff Present: Carl Lamping

III PLEDGE OF ALLEGIANCE

IV MINUTES OF THE REGULAR MEETING OF OCTOBER 24, 2023

Motion to approve the minutes presented by Mrs. Ghantous and seconded by Mr. Hall

Voice vote taken and the minutes were approved with a vote of 6-0.

V CORRESPONDENCE - None

VI REPORTS

Report on City Council

Mrs. Ghantous stated she did not bring her report. Chairman Anderson had a copy and requested permission to give the report since it was missed at the last meeting. Council met on November 15, 2023.

We had a special presentation recognizing and commending the outgoing mayor, Doyle Webster, for his dedication and service to the City of Springdale. He served the City for 50+ years in various positions. There was also a presentation resolution for Kathy McNear, who also served 50+ years in various roles.

There were 2 ordinances. They were both related. They were amending chapters 30 and 38 and repealing section 94.202 of the code of ordinances that also enacting the S26 supplement. This was largely based on updating the code of things that need to be cleaned up for the fact that we no longer have a Clerk of Council as of the end of this month. Some of the HR terms were updated that were in ordinances for some of the positions in the City. There were no questions.

Report on Planning Commission

Mr. Hall provided a report on the Planning Commission for November 14, 2023. The first order of business was the WAWA store which was a minor modification to the development plan on the building colors for case #20230794 and was passed by the Commission with a 7-0 vote. The second on the agenda was Chick-fil-A for the parking lot expansion and modification at 501 E. Kemper Rd for application #20230739. It was a zoning change with a PUD modification which will be sent to Council for their approval. That also passed with a vote of 7-0.

VII CHAIRMAN'S STATEMENT

Chairman Anderson read the Chairman's Statement.
One member of the audience was sworn in.

VIII OLD BUSINESS

Chase Bank at 11745 Princeton Pike requesting a variance to relocate a wall sign that was previously approved with a variance on 03/28/2023 by BZA from the North elevation to the South elevation. This would be in violation of Zoning Code 153.459C2 which only permits 1 wall sign on the East elevation and 3 directional signs over the drive thru. This is a continuation of a Public Hearing from October 24, 2023 meeting for application #20230685.

Mr. Lamping gave a brief overview of the case. Presentation of property was given on Google maps due to CAGIS not properly working. We will hear more from the applicant; however, it is understood that the signs that were made do not fit on the North side as originally proposed and approved. Applicant is requesting to relocate the sign on the South side. There is no frontage on any drive. This would require a variance either way, because the only signs approved by the Zoning Code are on the East side. All other signs around the building have to be approved by Board of Zoning Appeals because this is not a PUD. Mr. Lamping stated in March 2023 that he did not see any reason to have any of the signs around the building that weren't approved by the Zoning Code either way, but they were approved. Now they are wanting to move one from the North to the South.

Tracy Pichierri of Sign Tech Electrical Advertising at 4444 Federal Blvd., San Diego, CA 92102 approached the podium. Tracy is not from the area and drove the around noticing that heading North on Princeton Pike that there were multiple establishments that had more than one sign as well as signs that did not face any Public Right of Ways or streets. Much like Chase's West elevation, those signs faced businesses behind or faced into a parking lot. Tracy feels that Chase has an adequate request. At Princeton Pike and Francis Dr. intersection it was difficult to see Chase because it is dark even with a safety light. Chase is a round building and the angle made it even more difficult to see the sign that faced East, because there is nothing on the South elevation. The East sign was easier to see going Southbound than it was going Northbound. It would increase visibility for the branch and would help people unfamiliar to the area to not hold up traffic or cause an accident if they spot the bank at the last minute to try to cross traffic. It will also increase illumination inside the parking lot making it potentially safer for the customers that go into that parking lot.

Mr. Lamping stated that prior to the March 2023 meeting that the only signs on the building were 2 signs, one on the East and one on the West. The March 2023 BZA approval was the first time that the City approved 3 signs for this building. There are multiple things on this site. Some of the signs she saw were approved with the project when it was originally submitted, approved, and built. Chase was approved for a 3rd sign. They are simply looking to install the sign on the South elevation which is opposite the original approved location on the North elevation. This would override the previous variance to put the 3rd sign on the South elevation instead of on the North elevation.

Mr. Anderson opened up the floor for questions from the Board.

Ms. Ghantous questioned why the change in elevation location and if someone ordered the wrong size sign. Tracy indicated that the sign was ordered based on the architect's dimensions for the drive-thru and upon receiving the sign, it did not fit properly as it was not to scale. The size of the sign is the same size as the other signs on the building. Mr. Lamping confirmed that the Board would be approving what they submitted which is 20" signs.

Mr. Hall wanted clarification on visibility difference between the drive-thru and the South side. Tracy indicated that it was not to attract attention to the drive-thru, but to make the building more visible to traffic in the northbound lanes of Princeton Pike.

With nothing else to add, Chairman Anderson closed the Public Hearing and the chair will accept a motion.

Mr. Stahlgren made a motion in the matter of application #20230685 noted as submitted for Chase Bank building site at location 11745 Princeton Pike, I move that we find that there is not an unnecessary hardship for the owner in complying with the requirements of the Zoning Code, there are not special circumstances or conditions which are particular to the land structure or buildings and while which are not generally applicable to other lands structures or buildings in the same district, noting that this is not a PUD, that the requirements and the factors to be considered under Section 153.206 of the Springdale Code Ordinances are not satisfied and the variance request by the applicant should not be approved.

Ms. Ghantous seconded.

Chairman Anderson stated to be clear as the motion was read as understood and so that we are voting as expected, Chairman Anderson reiterated that a vote of "yes" would mean that we are denying the variance. Is that everyone's understanding of the motion? All Board members voice replied with their understanding. Mr. Lamping asked a clarifying question that the March approval provided for 3 signs, so with this motion would the sign over the drive-thru approval overwritten by this or can they still put a sign over the drive-thru. Per Chairman Anderson, with the approval of this motion, it does not repeal or change the existing variance. It simply finds that the new application does not have special circumstances beyond what was already approved. An "aye" or "yes" would mean denying the variance and a "nay" or "no" would mean that the motion is not carried and then we could move on to an additional motion to potentially approve it. A vote of "yes" means that there is no change in the variance.

With no other questions, Chair Anderson requested a poll of the Board based on the motion as read.

The motion has passed 6-0 meaning that the application has been denied.

IX NEW BUSINESS - None

X ADJOURNMENT

Mr. Nienaber made a motion to adjourn and Mr. Hall seconded.

Mr. Anderson stated we are adjourned.

Respectfully submitted,

_____, 2024

Chairman, Jeffrey Anderson

_____, 2024

Secretary, Tom Hall

SUBMISSION REQUIREMENTS
FOR AN APPEAL OF AN ADMINISTRATIVE DECISION
CITY OF SPRINGDALE ZONING CODE

1. GENERAL REQUIREMENTS

1.1 SUBMISSION CLOSING DATE (DATE: / /)

The application packet must be submitted (to) the City of Springdale Building Department no later than the due date. Early submission is recommended to assure placement on the agenda and adequate time for revisions and corrections.

Incomplete submittals will not be accepted for processing or be placed on agenda.

This request for variance is being submitted on November 24, 2023 to meet a due date in December 2023 in order to assure placement on the Board of Zoning Appeals agenda in January 2024.

2. WRITTEN REQUIREMENTS

2.1 PLAN REVIEW LETTER/ NOTICE/ ZONING ORDER (if applicable)

Submit one (1) copy of the Decision Letter for which you are appealing

Building Department Notice letter is attached to this request for variance

2.2 PLANNING/ZONING APPLICATION FORM

Complete and submit the PLANNING/ZONING APPLICATION form (provided).

2.3 OWNER'S AFFIDAVIT

Complete and submit the original copy of the Owner's Affidavit (provided).

2.4 DESCRIPTION OF REQUEST AND REASONS FOR APPEAL

Complete and submit the Description of Request and Reasons for Appeal form (provided).

2.5 CHECKLIST OF REQUIREMENTS

Submit this checklist fully completed.

3. GRAPHIC REQUIREMENTS

n/a 3.1 DETAILED DRAWINGS

Submit any drawings which help to describe the request before the Board, (i.e. Site Plans
Floor Plans, Building Elevations, Sign Drawings, Etc.)

3.2 PHOTOGRAPHS (If Applicable)

Provide different photographs to help to clarify your request to the Board.

3.3 OTHER SUPPORTING INFORMATION (If Applicable)

Provide any other supporting information which will assist the Board in understanding and
evaluating your case (i.e. brochures, literature, etc.)

Neighborhood support of the requested variance

4. ELECTRONIC DOCUMENT REQUIREMENTS

~~3.1 DETAILED DRAWINGS~~ (this item appears to be an error in the form available online)

Submit an electronic copy of all documents. Please know that Board of Zoning Appeals (BZA)
Applications can be submitted ONLINE on our Citizen Portal website under the PLANNING AND
ZONING APPLICATION module (about the fifth type down from the top of the page) and follow
the prompts on the right. Follow this link to see a step-by-step instruction packet that will help
walk you through the process

APPLICATION FOR
ZONING VARIANCE or ADMINISTRATIVE APPEAL
CITY OF SPRINGDALE BUILDING DEPARTMENT
11700 SPRINGFIELD PIKE SPRINGDALE, OHIO 45246
TELEPHONE: (513) 346-5730

1.) Please describe in detail your request for a Variance or Appeal.

This request for a variance is to Ordinance 153.252(F)(6)(c) Fowl, Rabbits, & Bees. The requested variance is to allow five chickens to continue living on our property until their natural death.

The chickens were a mother's day gift in May 2021. We searched the ordinances for "chicken" after receiving the chickens as a gift but did not find the ordinance specified to know that it existed because the ordinance has Fowl in the title.

The chickens have been living on the property for over 1.5 years before the building department notified us of the ordinance. None of our neighbors reported any issues with the chickens and none of our neighbors have any issues with the chickens living in the neighborhood. In fact, the neighbors enjoy the eggs that the chickens produce.

We have no plans to buy more chickens nor to receive more chickens as a gift. However, we have no place to re-locate the chickens in a humane way. Therefore, this request for a variance is to allow the chickens to continue living on our property until their natural death.

2.) FOR AN ADMINSTRATIVE APPEAL ONLY, Please indicate how you believe the Building Department or the Springdale Planning Commission erred in interpreting or applying the Zoning Code with respect to your application.

(If this Application is for a VARIANCE, please mark this question Not Applicable.)

Not applicable

DESCRIPTION OF REQUEST AND REASONS FOR VARIANCE

THE FOLLOWING ITEMS ARE REVIEWED BY THE BOARD AND ARE KEY TO SECURING A VARIANCE. ALL SECTIONS MUST BE ANSWERED FULLY AND COMPLETELY AND LEGIBLY WRITTEN OR TYPED (Attach additional pages if necessary).

1. Explain in detail what unusual characteristics about your property that make it impractical to comply with the Zoning Code requirements (i.e. topography or slope, narrow lot, irregular shaped lot, vegetation, location of existing structures, etc.).

Our property is as shown in Figure 1. The yard where the chickens live is fenced in. The chickens live within a fence that has a coop that is within the fenced-in yard.

There are no other unusual characteristics about our property that make it impractical to comply with the zoning code requirements except the fact that the chickens were a gift in May 2021 and have been living in the neighborhood for over 1.5 years before the building department notified us of the ordinance.

2. Please explain in detail how you would be deprived from using your property in a manner currently enjoyed by your neighbors, if your variance request were denied.

None of our neighbors reported any issues with the chickens. None of our neighbors have any issues with the chickens living in the neighborhood. We and the neighbors would be deprived of the eggs that the chickens produce (that we have been eating over the past 1.5 years). We also would no longer have the enjoyment of watching the chickens.

Additionally, the following factors should be considered in this evaluation.

- a. The property in question will still yield a reasonable return even with the variance.**
- b. The character of the neighborhood has not been nor is substantially altered by the chickens living in the neighborhood.**
- c. The adjacent properties have not and do not suffer substantial detriment as a result of this variance. The chickens are fenced in within a fenced-in yard.**
- d. The variance does not adversely affect the delivery of governmental services such as water, sewer, and refuse pick-up.**

3. Did you purchase the property with knowledge of the zoning restriction? If no, were you aware that zoning requirements existed in Springdale? If no, please explain.

We already owned the property and have owned the property since Sep 1995. We were not aware of the ordinance when we bought the property nor until the time we were notified of the ordinance by the building department. As noted previously, the chickens were a mother's day gift in May 2021. We

searched the ordinances for “chicken” after receiving the chickens as a gift but did not find the ordinance specified to know that it existed because the ordinance has Fowl in the title. It was not until the building department notified us that we were aware that the ordinance existed. Nor would we have searched the ordinances previously or have been aware of such an ordinance because we have never had chickens, birds (fowl), rabbits, or bees beyond the ones that naturally live in the neighborhood.

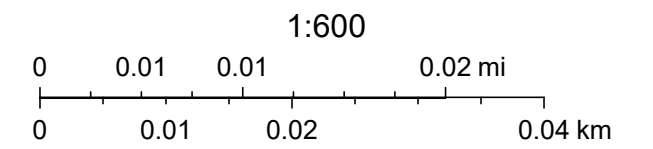
4. Are there ways in which you could use the property as desired and comply with the Zoning Code? Please explain.

Our property per the Hamilton County Auditor site is 0.652 acres. Therefore we cannot comply with the zoning code because the ordinance/code specifies 3 acres. As noted previously, we have no place(s) to re-locate the chickens in a humane way. As such, the variance is requested because we cannot feasibly prevent nor remove the non-compliance.

CAGIS Map



12/15/2023, 1:28:13 PM



CAGIS

City of Springdale



Building Department

(513) 346-5730

11700 Springfield Pike
Springdale, Ohio 45246

Fax (513) 346-5747

NOTICE

11/14/2023

DARNELL RONALD TR & SHELLY TR
329 CAMERON RD
CINCINNATI, OH 45246-4101

Re: 329 CAMERON RD, Case Number: 231330

Dear DARNELL RONALD TR & SHELLY TR:

Recognizing that well-maintained properties preserve the overall value of the neighborhood, the City of Springdale actively supports the community through ordinance engagement and community pride. The purpose is to alert property owners and tenants of unknown code violations, in order that they may bring their property into compliance.

It has been noticed that your property located at the above address is not in compliance with the following City Ordinance(s).

ORDINANCE 153.252(F)(6)(c) FOWL, RABBITS, & BEES

Husbandry of fowl, rabbits, or bees shall be regulated as follows: Fowl, rabbits, or bees may be raised or kept for a resident owner's use on a lot of not less than three acres of area. **To resolve this issue, you must:** remove the chickens from property by 11/21/23.

With your involvement and cooperation, you're not just protecting the value of your property; you're also keeping Springdale a great community in which to live.

Thank you for your participation and support. If you have any questions please call our office between 8:00 a.m. and 5:00 p.m. Monday through Friday.

Sincerely,

Garrett Fay
Building Inspector

CONDITIONS AND FINDINGS OF THE BOARD OF ZONING APPEALS

Application Number: **20230858**

Property Address: **329 Cameron Rd.**

(RSH-Low Density)

Date of Meeting: **March 26, 2024**

Requested Variance: The property owner Ronald & Shelly Darnell, are requesting a variance to keep five chickens on their property until their natural death; in violation of Zoning Code Section 153.252(F)(6)(C)(i), where the husbandry of fowl may be raised or kept for resident owner’s use on a lot of not less than three acres of area; and, in violation of Zoning Code Section 153.252(F)(6)(C)(ii), which requires not less than 100 feet from all adjacent residential lot lines.

[Extracted from Zoning Code Section 153.206(B) Review Factors]

CRITERIA	STAFF COMMENT	NOTES
Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness, or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures, or conditions.	We do NOT believe any special conditions or circumstances exist in regards to this property.	
Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.	We believe the property WILL yield a reasonable return without the variance.	
Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures.	We believe this request for a Variance IS substantial, as the 0.652 acres of land is insufficient to house the husbandry of fowl.	
Whether the essential character of the neighborhood would be substantially altered or whether adjacent properties would suffer substantial detriment as a result of the variance.	We believe the essential character of the neighborhood WOULD be substantially altered; and suffer substantial detriment as a result of the variance.	
Whether the variance would adversely affect the delivery of governmental services such as water, sewer, and refuse pick-up.	We believe the variance would NOT adversely affect the delivery of governmental services.	

CONDITIONS AND FINDINGS OF THE BOARD OF ZONING APPEALS

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CRITERIA	STAFF COMMENT	NOTES
Whether special conditions or circumstances exist as a result of actions of the owner.	No special circumstances are observed.	
Whether the property owner’s predicament can feasibly be obviated through some method other than a variance.	No other methods are apparent.	
Whether the spirit and intent behind these code requirements would be observed and substantial justice done by granting a variance.	The spirit and intent behind the code requirements WOULD NOT be observed by granting a variance.	
Whether the granting of the variance requested will confer on the owner any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.	We believe that granting this variance requested WOULD confer a special privilege that is denied by this regulation to other lands, structures, or buildings in the same district	
No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.		