

REPORT

DATE May 12, 2016

TO: Board of Zoning and Building Appeals for
Meeting Date May 18, 2016

FROM: Kris A. McMaster, Associate Planner
Mark Richardson, Community Development Director

SUBJECT: **Appeals Docket 2016-08**

Application

Variance to rear yard setback to allow a deck addition.

Site

Address: 2910 Barlow Road
District: 2 - Rural Residential Conservation
Applicant: Southerland Custom Builders
Owner: Robert and Diane Winston Co Trustee

Adjacent

<u>Location</u>	<u>District</u>	<u>Use</u>
North	2	Single Family Residential
South	N/A	City of Stow - Residential
East	2	Single Family Residential
West	2	Single Family Residential

Comments

The subject of this hearing is a request for a variance of sixteen (16) feet from the required rear yard setback of fifty (50) feet to allow an addition resulting in a thirty-four (34) foot rear yard setback pursuant to Section 1205.06(d)(5)(E)(i), "Setbacks: Minimum Rear Yard Setbacks-Principal Structure" of the City of Hudson Land Development Code.

The subject property is in District 2. The property is surrounded by single family residential homes to the north, east and west. To the south are single family homes in the City of Stow. The property received approval from the Board of Zoning and Building Appeals on February 18, 1999 to locate an accessory structure barn in the front yard. This approval was granted before the adoption of the Land Development Code in December 1999. The Zoning Certificate for construction of the home was issued on June 2, 1999. The owners purchased the property in June of 2011 and received a zoning certificate on October 15, 2015 for a 125 square foot addition for a laundry room. The owners are proposing to replace an existing deck and enlarge it. Staff notes that the zoning office shows no record of a zoning certificate for the existing deck although the owners indicate the previous owners said the deck was built at the same time as the house. The new deck will extend into the yard less than two feet more than the existing deck. The property owner has indicated that the larger deck will extend from the newly constructed laundry to the east end of the house. It will have more useable space and be lower to the ground after altering the grade of the property for better drainage patterns. The owners have stated that due to the location of their house and proposed new enlarged deck in relation to the adjacent neighbors' homes, the deck cannot be seen by their neighbors.

The following documents regarding the property are attached for your review:

1. **March 23, 2016**-Application for BZBA and supplemental information of applicant's request.
2. **March 23, 2016**-Letter from the Property owners.
3. **Aerial of site.**
4. **Site plan.**
5. **Photographs.**
6. **February 18, 1999**-BZBA Decision for variance to construction a barn in the front yard.

cc: BZBA 2016-08
Aimee W. Lane, Assistant City Solicitor
Southerland Custom Builders
Robert and Diane Winston Co Trustee
Council Liaison

Attachments

OHIO
HUDSON

COMMUNITY DEVELOPMENT • 115 Executive Parkway, Suite 400 • Hudson, Ohio 44236 • (330) 342-1790

BOARD OF ZONING AND BUILDING APPEALS APPLICATION

Please make check amount payable to "City of Hudson" for the amount of \$250.00.

Pursuant to the City of Hudson Land Development Code, the undersigned hereby submits attached information and requests a hearing before the Board of Zoning and Building Appeals for the following purposes(s):

(Please Circle Request)

"VARIANCE"

"NONCONFORMING USE" "APPEAL"

Property Address: 2910 BARLOW RD Zoning District: 2

Explanation of Requests and Justification:

- 2 LEVEL DECK TO ENTERTAIN + EGRESS TO BACK YARD
- TO EGRESS ACROSS NATURAL SWALE NEXT TO HOME
- TIE IN TO EXISTING HISTORIC PAVILION TIMBER STRUCTURE

For a variance: Code requires 50 setback/sq. ft./height. Request is for 34' setback/sq. ft. height, therefore requesting a 16' setback/sq. ft./height.

Year Property Purchased: 2011

ASKING FOR A 16' VARIANCE

Sections(s) of the Land Development Code applicable to this application:

The undersigned certify that the information provided to the Board in and with this application is true and accurate and consent to employees and/or agents of the City of Hudson entering upon the premises of this application for purposes of inspection and verification of information pertaining to the application, and if the application is approved, to verify conformance to requirements and conditions of such approval.

Applicant: SOUTHERLAND CUSTOM BUILDERS Property Owner: DIANE + ROB WINSTON

Address: 1000 OLD MICHIGAN, AURORA Address: 2910 BARLOW RD.

Telephone: (330) 562-9442 Telephone: (234) 380-5777

E-Mail: 1DECK1@ROADRUNNER.COM E-Mail: WINSTONDIANE@GMAIL.COM

Applicant: state relationship (agent, attorney, contractor, other): _____

Applicant Signature: Charles Southernland Date: 3/22/16

Property Owner Signature: Diane Winston Date: 3.23.16

(Staff use only)

Application No./Docket No. 2016-08 Hearing Date: 4-21-16

Date Received: 3-23-16 Fee Paid: 250⁰⁰ FEMA Floodplain Y N _____ (Initials)

City of Hudson | 115 Executive Parkway, Suite 400 | Hudson, Ohio 44236 | 330.650-1799 | www.hudson.oh.us

Architect: The Robinson Company
Frank Robinson email: arkitect314@gmail.com

BOARD OF ZONING AND BUILDING APPEALS (BZBA)

Application Supplemental Information

Application for property located at: 2910 BARLOW RD. EAST

Variances from the terms of this Code shall not be granted by the BZBA unless the application for variance demonstrates the following: "Exceptional or unusual conditions exist that are not common to other areas similarly situated and practical difficulty may result from strict compliance with any of the zoning standards, provided that such relief will not have the effect of nullifying or impairing the intent and purpose of these standards".

In determining "practical difficulty", the BZBA will consider the following factors:

1) The property in question (will/will not) yield a reasonable return and there (can/cannot) be a beneficial use of the property without the variance because: THE DECK PROPOSED WOULD CONNECT THE HOME ACROSS A SWALE AND TO EGRESS TO A EXISTING HISTORIC STRUCTURE LOCATED ON THE PROPERTY.

2) The variance is (substantial/insubstantial) because: IT'S CONNECTED TO HOME + IS CONSTRUCTED ON 4x4 FOOTINGS

a) Is the request the minimum amount necessary to make reasonable use of the property or structure(s)? YES, DUE TO GRADE

3) Would the essential character of the neighborhood be substantially altered? Explain: NO, ALL WOODED + NOT VIZABLE FROM ANY OTHER PROPERTY. CITY OWNS REAR PROPERTY

a) Would adjoining properties be negatively impacted: No

b) Describe how the adjacent properties will not be affected: CITY OWNS

4) Will this request adversely affect public services (mail, water, sewer, safety services, etc.)? No

5) Did the owner of the property purchase the property with the knowledge of the zoning restrictions? No

6) This situation cannot be feasibly solved by means other than a variance. Explain: NO BECAUSE THERE IS NOT ENOUGH ROOM TO DO ANYTHING WITH. THE EXISTING DECK ALREADY CUTS INTO THE SETBACK.

7) The spirit and intent behind the zoning requirement (would/would not) be observed and substantial justice (done/not done) by granting the variance because: THE NEW DECK WOULD HAVE TWO COMFORTABLE LEVELS LEADING TO GRADE. NO RAILING OFF THE END OF DECK WOULD IMPROVE VIEW OF WOODED AREA.

a) The circumstance leading to this request was not caused by current owner. It was caused by: ORIGINAL BUILDER OF THE HOME

b) List any special circumstances peculiar to the property/lot (i.e. exceptional irregularity, narrowness, shallowness or steepness) these circumstances are: EXISTING DECK IS ALREADY IN SETBACK AREA, HISTORIC STRUCTURE IS ALREADY IN SETBACK AREA, NO ROOM BEHIND HOME FOR ANY COMFORTABLE DECK + STAIR.

Signature: Jim Winston
OWNER

Date: 3.23.16

Winston
2910 Barlow Road
Hudson Ohio 44236

March 23, 2016

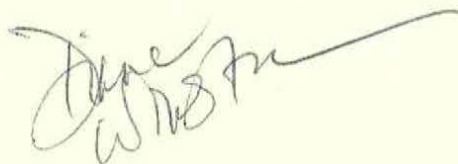
City of Hudson
Zoning Department

To Whom It Concerns:

We purchased this house June 2011.
Attached is an application for a variance for the proposed deck redesign on the property named above on Barlow Road. According to the previous owners, our current deck was built when the house was built in 2000. Some issues we want to change and/or correct from the existing deck are:

1. We would like more useable space for sitting and the placement of tables. The basic redesign extends the current deck to the end of the house a few feet on one end and joins the newly constructed laundry/mud room on the other end where currently there is dead unusable space. See #3 and #4 below.
2. For safety reasons, we want to lower the height of the main deck to be closer to the ground. A wide platform in place of steps at the same height as interior floors makes exiting and entering exterior doors from the family room, office and laundry room safer than steps.
3. We want to change the slope of the dirt for better drainage patterns making the deck closer to the ground.
4. Once the grade is slightly altered with additional dirt, there will not be need for railings and further enhance sightline (if any) from neighbors. The deck will be hardly visible from a distance since it will be closer to ground. (Please see pictures taken in summer.) Please note that neighbors to the east and west of us can barely see our property, let alone our back yard. The people who live behind us are clear across the woods and reside in Stow.

This deck is only being slightly redesigned from the existing deck which has been here for 16 years, and should not in any way negatively impact our distant neighbors. Please consider our request for a variance.



Rob and Diane Winston

City of Hudson, OH



Disclaimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey, or for zoning verification.

Map Scale
1 inch = 151 feet
3/28/2016

City of Hudson, OH

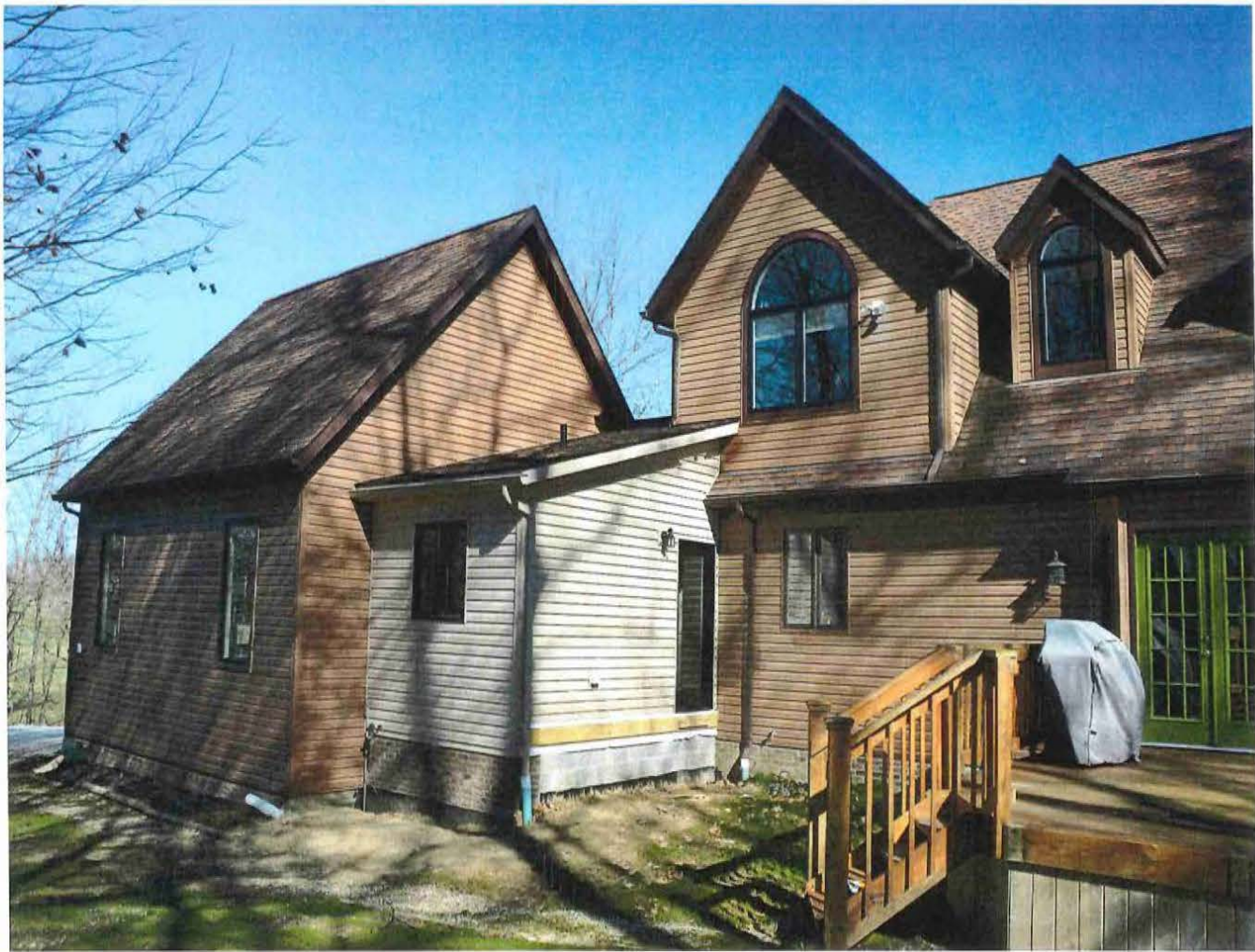


Owner Name	Winston Robert Co Trustee	Legal Description	LOT 10 SE CORNER BARLOW RD 303.50 FT FRT	
Site Address	2910 BARLOW RD	Area	2.31	
Parcel ID	3009395	Council Ward	Ward 3	
Owner Address	2910 BARLOW RD	Water Provider	Well Water	
Owner City	HUDSON	Sewer Provider	Septic System	
Owner State	OH	Electric Provider	First Energy	
Owner ZIP	44236	Water Rate	NA	
Phone	(330) 342-7954	Water Tap	NA	

Disclaimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey, or for zoning verification.

Map Scale
1 inch = 75 feet
 3/28/2016





**DECISION IS PERMANENT
REMOVE BACKUP PAPERWORK
TO RETENTION FILE ON THE
*DECISION DATE OF 2004
AWAITING DISPOSAL APPRVL**

**CITY OF HUDSON
BOARD OF ZONING
AND
BUILDING APPEALS**

**APPEALS DOCKET NO. 99-04
VARIANCE
BONNIE & MARK HILLIARD
2910 BARLOW ROAD
DISTRICT 2**

DECISION

Based on the evidence presented to the Board by the applicants and property owners Mark and Bonnie Hilliard, 7608 Seasons Road, Kent, Ohio, and City staff at a public hearing held in the Meeting Room of the Town Hall, 27 East Main Street, Hudson, Ohio at 7:30 p.m., on Thursday, February 18, 1999, the Board approves:

A request for a variance to permit the construction of a barn to be located closer to the road than the rear line of the proposed building of primary use. The Board hereby finds and concludes:

a)the property in question will yield a reasonable return or there can be beneficial use of the property without the variance;

b)the variance is substantial because of the number of feet of encroachment into the required setback area;

c)the essential character of the neighborhood would not be substantially altered or adjoining properties would not suffer a substantial detriment as a result of the variance because most of the residences are set back and are on lots of the same size;

d)the variance would not adversely affect the delivery of governmental services;

e)the applicant purchased the property with knowledge of the zoning restriction;

f)the applicant's predicament feasibly cannot be resolved through some method other than a variance; and

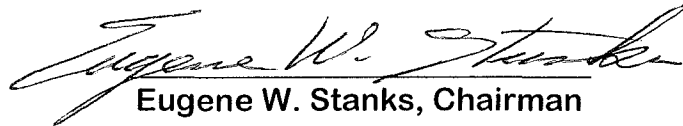
g)the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance

because of the nature and topography of the property and to make the most desirable use of the property for the applicants and their neighbors at 2910 Barlow Road, Hudson, Ohio, District 2, (Rural Residential) of the Comprehensive Plan Compatibility Overlay District and Regulations.

Dated: February 18, 1999

CITY OF HUDSON

BOARD OF ZONING AND BUILDING APPEALS



Eugene W. Stanks, Chairman

BARLOW ROAD 60' (C.H. 121)



NORTH

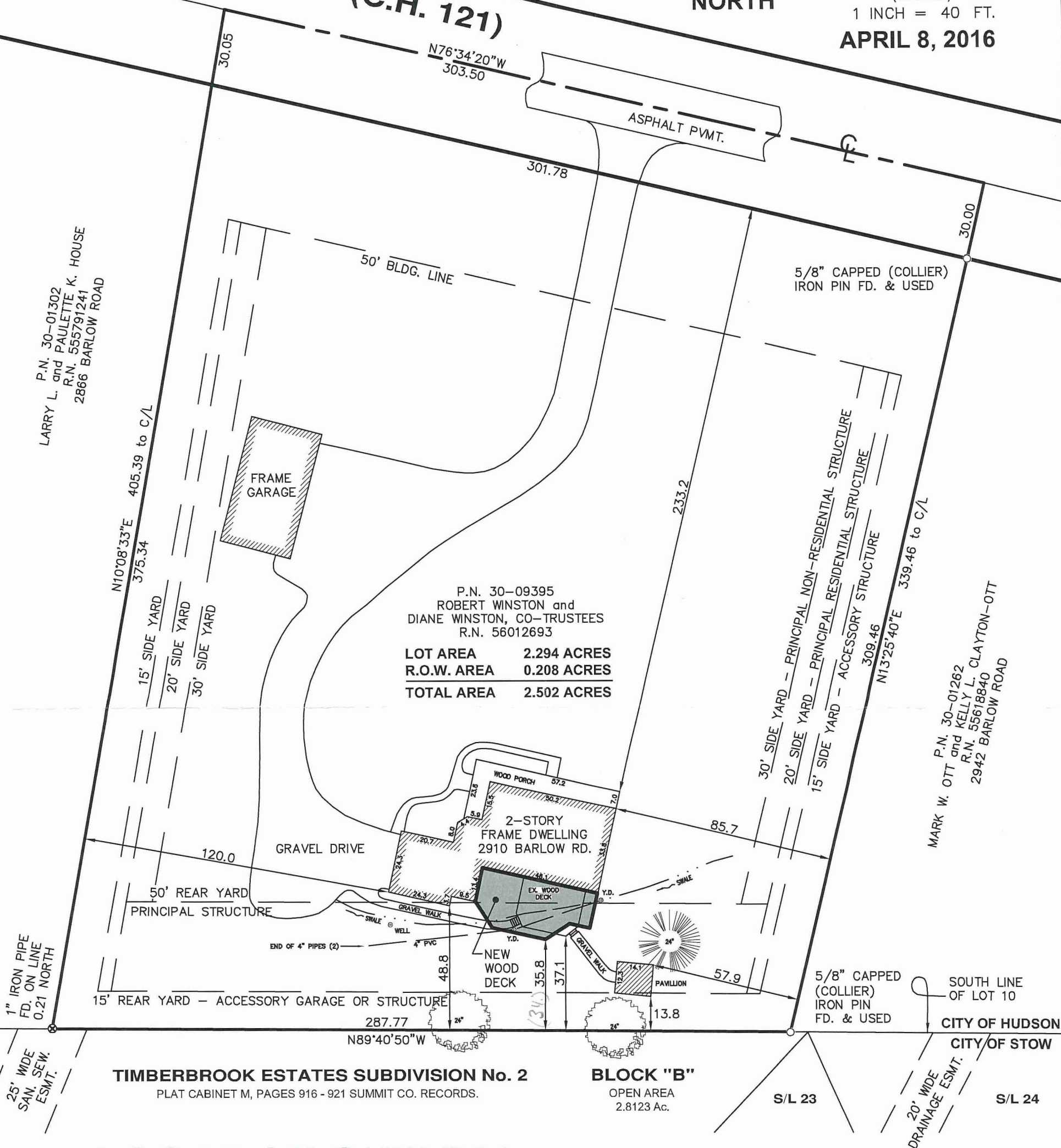
GRAPHIC SCALE



(IN FEET)

1 INCH = 40 FT.

APRIL 8, 2016



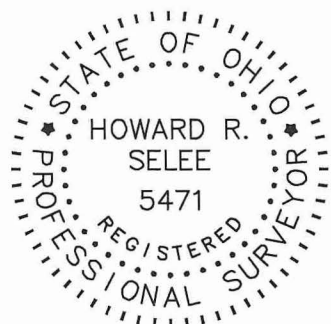
LOCATION SURVEY

for THE WINSTON RESIDENCE

2910 BARLOW ROAD

HUDSON, OHIO 44236

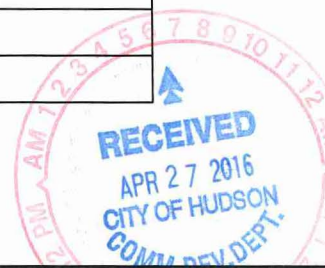
LEGEND:	
○	IRON PIN FOUND & USED.
⊗	IRON PIPE FOUND & USED.
⊕	YARD DRAIN
⊙	WELL



Howard R. Selee
HOWARD R. SELEE, REGISTERED SURVEYOR #5471

HOWARD R. SELEE & ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS
9701 BROOKPARK ROAD * SUITE 231 * CLEVELAND, OH 44129
(216) 398-0280

FILE NO. 16017-LOC



Board of Zoning and Building Appeals
Area/Size Variance Worksheet

Application for property located at: _____

Applicant: _____

After reviewing the application, the hearing of evidence under oath, reviewing all documentary submissions of interested parties, and by taking into consideration the personal knowledge of the property in question, the Board of Zoning and Building Appeals finds and concludes:

1. The property in question (will / will not) yield a reasonable return and there (can / cannot) be a beneficial use of the property without the variance because

2. The variance is (substantial/insubstantial) because _____

3. The essential character of the neighborhood (would / would not) be substantially altered or adjoining properties (would / would not) suffer a substantial detriment as a result of the variance because _____

4. The variance (would / would not) adversely affect the delivery of governmental services, (e.g. water, sewer, garbage).
5. The applicant purchased the property (with / without) knowledge of the zoning restriction.
6. The applicant's predicament feasibly (can / cannot) be resolved through some method other than a variance.
7. The spirit and intent behind the zoning requirement (would / would not) be observed and substantial justice (done / not done) by granting the variance because _____

For all of the above reasons, I move that the variance be (granted / denied) (granted with the following conditions):

