



**CITY OF COLUMBUS
BOARD OF ZONING APPEALS
(September 27, 2016 Meeting)**

STAFF REPORT

Docket No. / Project Title: C/DS-16-43 (Marvin Mitchell)
Staff: Emilie Pinkston
Applicant: Marvin Mitchell
Property Size: 27,000 Square Feet
Current Zoning: RS2 (Residential: Single-Family 2)
Location: 1076 Pine Hill Drive, in the City of Columbus

Background Summary:

The applicant has indicated that the proposed variance from Zoning Ordinance Section 3.9(C) is for the purpose of allowing a 12 foot by 16 foot (192 square foot) accessory structure, a shed, to be setback 28 feet from the centerline of Terrace Lake Road, which is 19.5 feet closer than permitted. The Zoning Ordinance requires that the shed, which is currently under construction, be setback a minimum of 47.5 feet from the centerline of Terrace Lake Road. In its current location, the shed encroaches, by 2 feet, into the existing right-of-way of Terrace Lake Road.

Preliminary Staff Recommendation:

Approval; all criteria have been met.

Zoning Ordinance Considerations:

District Intent: The intent of the RS2 (Residential: Single-Family 2) district is as follows: This district is intended to provide areas for moderate density single-family residences in areas with compatible infrastructure and services. Development in this zoning district should generally be served by sewer and water utilities. Such development should also provide residents with convenient access to Collector and Arterial streets, parks and open space, employment, and convenience goods.

Development Standards:

1. Zoning Ordinance Section 6.1(E)(3) states that no accessory structures shall be permitted in any front yard. In the case of through lots, however, the prohibition on accessory structures in the front yard shall apply only to the front yard to which the primary structure faces. Accessory structures shall be prohibited from being located in the required setback for the other front yard.
2. Zoning Ordinance Section 3.9(C) states that minimum front yard setback along collector streets, such as Terrace Lake Road, is 15 feet.
3. Zoning Ordinance Section 3.3(C)(6) states that the front setback shall be measured as the shortest horizontal distance between the street or road right-of-way specified by the applicable Thoroughfare Plan and the foundation of the nearest structure. Front setback requirements shall also apply to any reserved rights-of-way. The specified right-of-way shall be measured with ½ of the required distance on either side of the centerline of the street/road.

Current Property Information:	
Land Use:	Single-family residential
Site Features:	Single-family residence, driveway, and landscaping
Flood Hazards:	According to Flood Insurance Rate Map (FIRM) 18005C0137E, effective December 9, 2014, the subject property is located in Flood Zone X (Unshaded), which designates areas outside of the mapped floodplain.
Vehicle Access:	The subject property is accessed from Pine Hill Drive (Local, Residential, Suburban) but is also adjacent to Terrace Lake Road (Collector, Residential, Suburban).

Surrounding Zoning and Land Use:		
	Zoning:	Land Use:
North:	RS2 (Residential: Single-Family 2)	Single-family residential
South:	RS2 (Residential: Single-Family 2)	Single-family residential
East:	RS2 (Residential: Single-Family 2)	Single-family residential
West:	AP (Agriculture: Preferred)	Single-family residential

Interdepartmental Review:	
City Engineering:	Engineering has no comments on this variance at this time.
City Utilities:	No comments received.
Columbus Fire Department:	The Columbus Fire Department does not have any issues with this request.
Department of Technical Code Enforcement	Code Enforcement does not have any issues with this proposal. Approval of this variance request will not create any building code violations or permitting issues.

Planning Consideration(s):

The following general site considerations, planning concepts, and other facts should be considered in the review of this application:

1. The applicant has constructed a 12 foot by 16 foot (192 square foot) shed within the Terrace Lake Road frontage of his single-family residential property. Zoning Ordinance Section 6.1(E)(3) prohibits the placement of accessory structures within front yards but provides an exemption for through lots, such as the subject property, as long as the accessory structure is not located in the front yard toward which the primary structure faces and it complies with the minimum front setback requirement. The

residence on the subject property faces Pine Hill Drive, thus the accessory structure is allowed within the Terrace Lake Road front yard.

2. Generally speaking, the Zoning Ordinance regulates minimum front setbacks from the existing or planned right-of-way lines, whichever is greater. The planned right-of-ways are determined by the street classifications and design guidelines in the City of Columbus Thoroughfare Plan. In this case, the existing right-of-way of Terrace Lake Road is narrower than planned by the Thoroughfare Plan. The Thoroughfare Plan plans for a minimum ½ right-of-way width of 32.5 feet, while the existing ½ right-of-way is only 30 feet in width. Therefore, the 15 foot minimum setback designated in Zoning Ordinance Section 3.9(C) must be measured beginning 32.5 feet the Terrace Lake Road centerline. The Zoning Ordinance uses planned right-of-way to determine setbacks in order to allow for possible, future road improvements. In summary, the minimum required front setback for the shed is 47.5 feet from the centerline of Terrace Lake Road.
3. The shed was constructed 28 feet from the centerline of Terrace Lake Road, and it encroaches 2 feet into the existing right-of-way. Thus, the applicant is requesting to allow an accessory structure with a 28 foot setback from the Terrace Lake Road centerline, which is 19.5 feet closer than the 47.5 foot minimum setback.
4. Because the accessory structure is located within the public right-of-way, the petitioner must receive approval from the City of Columbus Board of Public Works and Safety. This approval was received on August 16, 2016. The review conducted by the Board of Public Works and Safety encompassed the portion of the structure that is within the public right-of-way, while the Planning Department review is limited to the portion of the structure within the front yard but not in the right-of-way.
5. The accessory structure has an overall height of 12 feet. The shed is intended to house lawn maintenance equipment and other storage materials.
6. The west property line of the subject property, the lot line nearest Terrace Lake Road, is lined by a 15 foot tall row of evergreen trees. This tree row is located fully within the public right-of-way but acts as a nearly opaque buffer between the subject property and Terrace Lake Road. This tree row wraps around the north property line and extends approximately 20 feet along the subject property's north property line.
7. The residential structure on this property is setback approximately 125 feet from the edge of pavement along Pine Hill Drive. This large setback results in a relatively narrow front yard along the Terrace Lake Road frontage. The proposed accessory structure cannot be located to the rear of the home and also meet the front setback requirement; the space is too narrow. Therefore, the structure must be located on the north or south sides of the home. The area to the north of the home is occupied by a driveway and a mature deciduous tree. The area to the south of the home is open space, but it is potentially more visible from Pine Hill Drive and is near a large, mature tree located on an adjacent property.
8. According to the information provided by the applicant, the accessory structure complies with all applicable side yard setbacks.

Provisional Findings of Fact/Decision Criteria:

The Board of Zoning Appeals may approve or deny variances from the development standards of the City of Columbus Zoning Ordinance. The Board may impose reasonable conditions as part of an approval. A variance from the development standards may only be approved upon a determination in writing that:

1. **The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**

Provisional Findings: The location of the accessory structure does not pose a safety concern for residents of the neighborhood or those traveling along Terrace Lake Road. Although the structure is located within the Terrace Lake Road right-of-way, the structure's location was approved from the Board of Public Works and Safety and it is buffered from the street by a 15 foot tall, opaque row of evergreen trees. *This criterion has been met.*

2. **The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.**

Provisional Findings: The accessory structure will comply with all applicable side yard building setbacks. Furthermore, the structure is screened from the residential properties on the west side of Terrace Lake Road by a 15 foot tall row of evergreen trees. The placement of the accessory structure in the applicant's front yard is not expected to affect the use or value of the nearby residential properties. *This criterion has been met.*

3. **The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.**

Provisional Findings: The required 15 foot front yard setback limits the placement of the accessory structure on the subject property. This property has a large front yard along Pine Ridge Drive, which resulted in a narrow front yard along Terrace Lake Road. Due to the placement of the home, the accessory structure cannot be located between the home and Terrace Lake Road and also meet the front setback requirement. This limits the accessory structure to either the north or south side yards. The north yard is occupied by a driveway and a large, mature tree; placing the structure here could potentially interfere with the tree and/or its root system. The south yard is open but likely more visible from adjoining properties and is near a large, mature tree on the property to the south that could potentially be impacted by the placement of the shed. These characteristics, together, limit the placement of the shed on the subject property. Furthermore, the presence of the opaque, evergreen tree lawn, while located in the public right-of-way, creates a space that acts functionally as part of the applicant's back yard. *This criterion has been met.*

Board of Zoning Appeals Options:

In reviewing a request for development standards variance the Board may (1) approve the petition as proposed, (2) approve the petition with conditions, (3) continue the petition to a future meeting of the Board, or (4) deny the petition (with or without prejudice). Failure to achieve a quorum or lack of a positive vote on a motion results in an automatic continuance to the next regularly scheduled meeting.

Variance Requested:

I am requesting a variance from Section 3.8 © of the Zoning Ordinance to allow the following:

A 12' x 16' custom shed placed on the west property line approximately 7' setback from natural property barrier (back of tree line/retaining wall).

Variance Request Justification:

The Indiana Code and the Columbus & Bartholomew County Zoning Ordinance establish specific criteria that must be met in order for a development standards variance to be approved. Describe how the variance request meets each of the following criteria.

The approval will not be injurious to the public health, safety, morals, and general welfare of the community.

The shed location will not pose a threat to the aforementioned aspects of the community. On the contrary, the shed will be custom built to match the décor of our home and will only increase value of our property and adjacent properties. Additionally, it will store some otherwise unsightly tools and large lawn equipment that often must remain outdoors and could be accessed by neighborhood children or potential thieves. The shed will provide safe storage.

The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

The adjacent neighbors, Barney and Angela Taylor, are very supportive of the shed's location as it is tucked in the back corner of our lot and is almost completely hidden by a large tree row (green giant arborvitaes) that provides a natural 15' privacy fence between the Taylor's lot and ours, as well as between Terrace Lake Road. Board of Works has approved the location of the shed as it rests on a R/W easement, but the natural property line is the large tree line. Behind the tree line is a 4' retaining wall where grade drops down to a narrow grassy area and then the road.

The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed; nor be based on a perceived reduction of, or restriction on, economic gain.

Due to our lot designation we don't technically have a 'back' yard. However, the shed is placed in the only area behind the house that is functional and appealing to the neighborhood as it is mostly hidden. Due to large trees present in most open areas surrounding the house, there is not another amiable location for the shed to be placed. The side yard to the north functions like a continuation of our front yard and I'm confident that the adjacent neighbors, Steve and Sharon Thompson, would not want to look at the back of a shed from their driveway as we now share a well landscaped and manicured lawn that is very visible. A shed placed in any other location would be unsightly to us and neighborhood.

Application Fee Refund Information:

The adopted Planning Department Schedule of Application Fees provides for the refunding of application fees for this request if it is approved by the Board of Zoning Appeals. The refund will be provided by mail in the form of a check. It may take several weeks after the Board of Zoning Appeals approval to process the refund and issue the check. Please indicate to whom the refund should be provided:

Name: Marvin Mitchell

Address 1076 Pine Hill Drive Columbus IN 47201
(number) (street) (city) (state) (zip)

Applicant's Signature:

The information included in and with this application is completely true and correct to the best of my knowledge and belief.



(Applicant's Signature)

August 23, 2016
(Date)

Owner's Signature (the "owner" does not include tenants or contract buyers):

I authorize the filing of this application and will allow the Planning Department staff to enter this property for the purpose of analyzing this request. Further, I will allow a public notice sign to be placed and remain on the property until the processing of the request is complete.



(Owner's Signature)

August 23, 2016
(Date)

(Owner's Signature)

(Date)



Shed
12'
16'

231'

162'

Columbus

1076 PINE HILL DR

688

684

686

682

678

676

680

9'

6'

7'