



**CITY OF COLUMBUS
 BOARD OF ZONING APPEALS
 (November 26, 2013 Meeting)**

STAFF REPORT

Docket No. / Project Title: C/DS-13-32 (Jean Lawson)
Staff: Allie Keen
Applicant: Jean Lawson
Property Size: 4 Acres
Current Zoning: AP (Agriculture: Preferred)
Location: 7952 South 400 West, in Ohio Township

Background Summary:

The applicant has indicated that the proposed variance from Zoning Ordinance Section 3.5(C) is for the purpose of allowing a new lot to be created with only 1 viable septic site, 1 less than required. The second septic site will be accommodated off-site in an easement on an adjacent lot.

Preliminary Staff Recommendation:

Denial, criteria 1, 2, and 3 have not been met.

Zoning Ordinance Considerations:

District Intent: The intent of the AP (Agriculture: Preferred) zoning district is as follows: To provide an area suitable for agriculture and agriculture-related uses. This district is further intended to preserve the viability of agricultural operations, and limit non-agricultural development in areas with minimal, incompatible infrastructure. Residential development in this zoning district is intended to be limited. In no instance shall this zoning district be considered a large-lot residential zone. This district is further intended to protect the use and value of both agriculture and non-agriculture property within the community.

Development Standards: Section 3.5(C) Minimum Lot Area: The minimum lot area for properties located in the AP (Agriculture: Preferred) zoning district shall be equal to either 1 acre or as required to provide two viable septic system sites, in the opinion of the Bartholomew County Health Department, whichever is greater.

Current Property Information:	
Land Use:	Single-Family Residential
Site Features:	Single-family house, barn, driveway, mature trees.
Flood Hazards:	No flood hazards exist on this property.
Vehicle Access:	South 400 West (Minor Arterial, Rural, Residential)

Surrounding Zoning and Land Use:		
	Zoning:	Land Use:
North:	AP (Agriculture: Preferred)	Single-Family Residential
South:	AP (Agriculture: Preferred)	Single-Family Residential
East:	AP (Agriculture: Preferred)	Agriculture
West:	AP (Agriculture: Preferred)	Single-Family Residential/Agriculture

Interdepartmental Review:	
City Engineering:	No comments have been provided at this time.
County Engineering/Highway:	County Highway has no issues with this request.
Code Enforcement:	No comments have been provided at this time.
Health Department:	<ol style="list-style-type: none"> 1. The existing lot, although it contains approximately four acres, has extremely limited space for on-site sewage systems due to the width of the lot, existing lot features, and the topographic conditions of the lot. Therefore, when the owner proposed to subdivide the lot into one 1.08 acre lot and 2.74 acres lot, this department was unable to locate two on-site sewage system sites on the proposed lot 1. 2. When trying to locate a second system site for proposed lot 1, this department identified an area on proposed lot 2 that would be suitable for a system provided an easement for granted for that use. In deciding on the second location, this department considered the future needs of proposed lot 2. There is enough suitable space between the existing on-site sewage system serving the house located on proposed lot lot 2 and the easement needed for the second system serving the house located on proposed lot 2 and the easement needed for the second system site for proposed lot 1 to install a new on-site sewage system for the house on proposed lot 2. 3. The primary on-site sewage system location for proposed lot 1 is located on proposed lot 1. The second site located on proposed lot 2 will only be used if the system installed on the primary site fails or the primary site is disturbed so badly that it is no longer suitable for an on-site sewage system. 4. This department has worked very closely with the petitioner and her surveyor to try and determine the best possible options available given the existing conditions. It is the opinion of this department that having a second on-site sewage system site on proposed lot 2 is the only way to obtain two acceptable system sites for proposed lot 1. 5. The on-site sewage system for the house on proposed lot 2 was installed in September of 2008. Inspections conducted by this department on June 28, 2013 and October 9, 2013 found no signs of malfunction. The system is contained within the proposed lot boundaries for proposed lot 2.

History of this Location:

The relevant history of this property includes the following:

1. On August 27, 2013, the Columbus Board of Zoning Appeals approved a development standards variance (C/DS-13-22) to allow the 4 acre subject property to be subdivided into two lots without the required 10 acre parent tract remainder. At that time, the new lot was approximately 1 acre in size with the parent tract remainder being 3 acres. The intent of the new lot was to build a second home on the new lot for the applicant's daughter.
2. On October 14, 2013, an application for the minor subdivision (MP-13-11) of the subject property was submitted to the Planning Department for approval. During the review process, it was determined that the new lot did not meet the minimum lot area for a property located within the AP (Agriculture: Preferred) zoning district, per Section 3.5(C) of the Zoning Ordinance, because the new lot was not able to accommodate 2 viable septic site locations on site; therefore a development standards variance would be required to allow the second septic site to be located off-site, prior to the minor subdivision application being approved.

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 is proposing to subdivide their 4 acre property into two lots. The new lot will be approximately 1.08 acres in size and will be located directly in front of the current property. The intent is to build a second home on the new lot. The applicant has indicated that her daughter will live in the second home and will help to care for her and her son, who currently live on the property.
2. According to the provided site plan, the proposed new lot will only be able to accommodate one viable septic system location on site. Per Section 3.5(C) of the Zoning Ordinance, the minimum lot area for a property located within the AP (Agriculture: Preferred) zoning district shall be equal to 1 acre or an area that can accommodate two viable septic system locations, whichever is greater. The intent of this provision is to ensure there is a backup site available in case the first septic system site fails. In this case, the new proposed lot meets the 1 acre standard but it is too small and unable to accommodate a second septic site onsite; therefore, the applicant is proposing that the second required septic site be located offsite on the remaining 2.74 acres of the property. If both septic sites were accommodated on the same lot, it potentially could prevent any future property disputes in the event the second site needed to be utilized. At this time, the applicant has indicated that the new lot will be using the primary septic site located on the lot.
3. The second septic site will be located approximately 390 feet from the proposed new lot and will be accessed by a 15 foot septic easement from the new lot to the septic location. The actual reserved area for the septic is approximately 9,000 square feet in size and is located behind the existing single-family residence and does not conflict with the existing septic system on the property. This second site is significantly far from the proposed lot and a septic system at this location could potentially be costly to install and extend to the proposed lot if the primary septic site failed.
4. The reserved septic site on the adjacent property also impacts the usability of the current lot. This area in addition to the existing septic location would be unavailable for any future expansions or accessory structures. Also, if the existing septic system that serves the current lot failed, it would require a third site to be located on the relatively small and narrow 2.74 acre property.
5. The surrounding area is all zoned AP (Agriculture: Preferred) and is primarily rural single-family residential and agricultural uses. The adjacent properties to the east and west of the site are large agriculture fields and have areas of dense vegetation. Ensuring safe sanitation practices is important for the surrounding agricultural uses and residential properties.
6. The surrounding residential lots average 4 acres in size and are generally all very long and narrow. The adjacent properties to the east and west of the site are large agriculture fields and have areas of dense vegetation. The proposed lot would only be 1.08 acres, which is significantly smaller than the surrounding properties.
7. If the applicant were to incorporate the septic easement into the proposed lot, both septic systems could be located on the same lot rather than the second site being accessed through a dedicated easement. If the applicant chose to do this as the site plan currently shows it would create a setback issue with the existing barn and would require a different development standards variance. However, if the applicant chose to make both lots equal to two acres or less, per Section 3.5(C) of the Zoning

Ordinance, the side setback for accessory structures is only 5 feet, which could be met. Therefore, there is an option to create two lots without the requested septic variance.

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 intent of providing two viable septic systems on a lot is to ensure there is a backup site available in the event the primary site fails. With the proposed second site located off-site it creates a new health and safety issue because it now involves two properties and the cooperation of the property owners. While members of the same family will occupy both lots now that will not always be the case. If the second site failed, it could be injurious to both properties as well as neighboring owners. *This criterion **has not** 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: Although a second septic site has been identified for the proposed lot, that site is located off-site on the current residential property. Having an area that is reserved for the future needs of a different property impacts the usability and potentially the value of the adjacent property. While members of the same family will occupy both lots now that will not always be the case. If the second site failed, it could potentially affect the adjacent properties in a substantially adverse manner. *This criterion **has not** 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: Although the proposed new lot is unable to accommodate two viable septic sites on the property, the proposed subdivision of this property creates the need for the variance. There is no practical difficulty in the use of the current 4 acre lot. Such lots are common in this area and zoning district. Therefore the situation is self-imposed and the strict application of the terms of the zoning ordinance will not result in a practical difficulty. *This criterion **has not** 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.

*15 COPIES
APPLICATION
& SITE PLAN

Columbus – Bartholomew County Planning Department
Development Standards Variance Application

RECEIVED
OCT 18 2013
BY: AKL

Planning Department Use Only:

Jurisdiction: Columbus Bartholomew County

Zoning: AP
Docket No.: CD-13-32

Hearing Procedure: Hearing Officer Board of Zoning Appeals

Development Standards Variance Application:

Applicant Information (the person or entity that will own and/or execute what is proposed):

Name: Jean Helena Lawson
Address: 7952 S 400W Columbus IN 47201-4870
(number) (street) (city) (state) (zip)
Phone No.: 812-342-7155 Fax No.: _____ E-mail Address: jean.lawson2002@yahoo.com

Property Owner Information (the "owner" does not include tenants or contract buyers):

Name: Jean Helena Lawson
Address: 7952 S 400W Columbus IN 47201-4870
(number) (street) (city) (state) (zip)
Phone No.: 812-342-7155 Fax No.: _____ E-mail Address: _____

Notification Information (the person to whom all correspondence regarding this application should be directed):

Name: Jean Helena Lawson
Address: 7952 S 400 W Columbus IN 47201-4870
(number) (street) (city) (state) (zip)
Phone No. 812-342-7155 Fax No.: _____ E-mail Address: _____

How would you prefer to receive information (please check one): E-mail Phone Fax Mail

Property Information:

Address: 7952 S 400 W Columbus IN 47201-4870
(number) (street) (city) (state) (zip)

or General Location (if no address has been assigned provide a street corner, subdivision lot number, or attach a legal description):

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: Jean Helena Lawson
Address: 7952 S 400 W Columbus IN 47201-4870
(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.

Jean Helena Lawson
(Applicant's Signature)

Oct 18, 2013
(Date)

Property 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.

Jean Helena Lawson
(Owner's Signature)

Oct 18, 2013
(Date)

(Owner's Signature)

(Date)

Question 1.

The approval of the offsite secondary backup septic location will not be injurious to the public health, safety, morals, or general welfare of the community due to its designated location. The location is approximately 725 feet west of county road 400 W, behind the applicants existing house, septic, and garden area, is not visible from any neighbors' windows or near other property owner's septic systems. Plus, there will be easy access along the northern edge of the applicant's property for the line to be placed if it should ever become necessary. The applicants land has a natural tilt East ward which is not directed toward neighboring property. The secondary offsite location is a field of weeds and grass that is currently being mowed periodically. A soil analysis has been completed and the location is suitable for a septic system should the primary site ever fail.

Question 2.

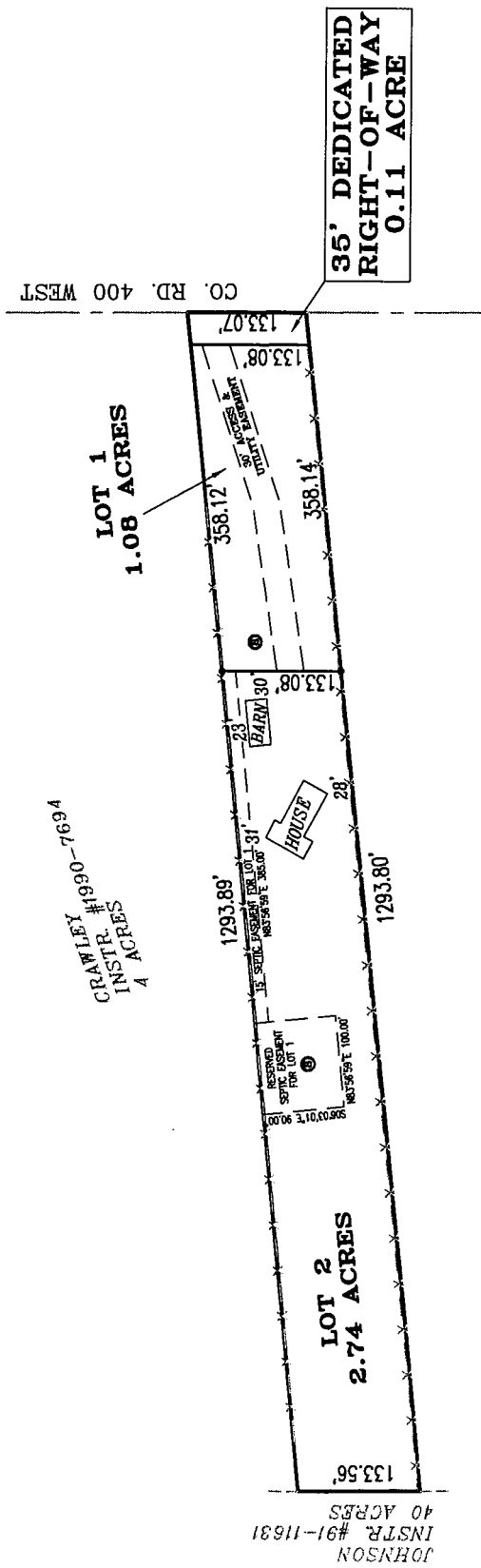
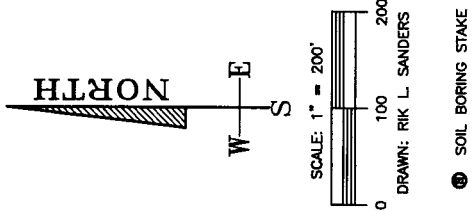
The use and value of the area adjacent to the property requesting the variance will not be affected in a substantially adverse manner. The offsite secondary septic location's neighboring properties (north, south, and west side of applicant's property) portions adjacent consists of unimproved young growth wooded land that is left untended. Due to the extremely long and narrow dimensions of the applicant's property (133 feet by 1294 feet) this is the most natural selection for a secondary septic site to be available offsite.

Question 3.

The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property for the owners requesting the variance due to the lots lengthy and narrow dimensions. The variance request of the applicant for a secondary offsite septic site is necessary due to the aforementioned description of the acreage. The secondary septic system offsite, illustrated on the enclosed surveyor's plot, has passed a soil analysis. The primary site on the new lot has passed the soil analysis, been approved and flagged for construction by the Board of Health, and is on hold until the variance is granted in order to meet the new zoning ordinance for residents within the two mile city limits. This variance request is due to the unusual shape of the area's lots and the special needs of the family members concerned. The applicants are trying to create a home to enable the daughter and her husband to live near the applicant and help care for her. Their nearness would enable her to stay in her home and not eventually end up in a nursing home and to assist with caring for the applicant's

moderately mentally handicap and psychologically troubled son. This is the final variance request needed to enable the family to move forward with their lives. Granting of the variance will provide assistance for residents of the original property and enable them to remain in their home under a safer environment and will enable the new home owners the self-assurance that the original property is being cared for properly. It will also add another tax unit to the local property taxes therefore benefiting the local tax system. The variance will benefit the property owners and the community overall.

Unsworth Minor Subdivision EXISTING FEATURES



JOHNSON
INSTR. #91-11931
40 ACRES

CRAWLEY #16980-7694
INSTR. #16980-7694
4 ACRES

BOAS #2007-8122
INSTR. #2007-8122
4 ACRES

CURRENT OWNER OF RECORD:
JEAN HELENA LAWSON
INSTR. #2007-16581
AUD. PARCEL ID:
#03-85-17-000-ZE006.800-016

35' DEDICATED
RIGHT-OF-WAY
0.11 ACRE

LOT 1
1.08 ACRES

LOT 2
2.74 ACRES



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