

VILLAGE OF YELLOW SPRINGS
BOARD OF ZONING APPEALS
MEETING AGENDA

The Village of Yellow Springs Board of Zoning Appeals will convene on
Wednesday, March 20, 2024 at 5:00 PM.

You may express your views in writing by providing a copy to the Clerk of Council for inclusion in the record of the hearing. Please submit your letter by no later than **Thursday, March 14, 2024 for inclusion in the BZA packet: however, all letters received any time prior to the hearing will be provided to Board of Zoning Appeals members and the Zoning Administrator.** The application, as prepared by the petitioner, may be examined at the office of the Zoning Administrator on the 2nd floor of the Bryan Community Center, 100 Dayton Street, Yellow Springs, Ohio 45387 at any time during regular office hours or on the Village website at www.yso.com after **Friday, March 15, 2024**. Questions regarding the application, zoning code or procedures may be directed to the Zoning Administrator Meg Leatherman, phone (937) 767-1702 or by email to mleatherman@yso.com.

5:00 CALL TO ORDER

ROLL CALL

REVIEW OF AGENDA

COMMUNICATIONS

REVIEW OF MINUTES

Review of Minutes for January 10, 2024.

PUBLIC HEARINGS

Variance Request– General Business District (B-2) – 1425 Brookside Drive, Iron Table Holdings, LLC has submitted an application for a variance seeking relief from Chapter 1260.01(a)(1), for allowance of a fence height of seven (7) feet in the front yard. **Greene County Parcel ID # F19000100060008500**

AGENDA PLANNING

ADJOURNMENT

**VILLAGE OF YELLOW SPRINGS
BOARD OF ZONING APPEALS
MINUTES**

In Council Chambers @ 6:00 P.M.

Wednesday, January 10, 2024

CALL TO ORDER

The meeting was called to order at 6:04 p.m. by Matt Reed, Chair.

ROLL CALL

Matt Reed, Chair, members Anthony Salmonson and Matt Raska were present. Zoning Administrator for the Village, Meg Leatherman, was also present.

COMMUNICATIONS

There were no Communications.

REVIEW OF AGENDA

Nomination and Vote for Chair was added to New Business.

REVIEW OF MINUTES

Minutes for BZA Meeting of June 14, 2023 were reviewed. Salmonson MOVED and Raska SECONDED a MOTION TO ADOPT THE MINUTES AS WRITTEN. The MOTION PASSED 3-0 on a VOICE VOTE.

PUBLIC HEARINGS

- 1. Variance Request – I-1**, Mixed Industrial District – 845 Dayton Street, Jonathan Meier with MQ Rentals, LLC has submitted an application for a variance seeking relief from Chapter 1260.04(7), regarding size of accessory structure. Greene County Parcel ID #F19000100030005500.

Leatherman noted all notices and communications complying with the zoning code requirements.

Leatherman introduced the hearing as follows:

Jonathon Meier, owner of MQ Rentals, LLC, and property owner, submitted a Variance application seeking relief from the Accessory Structure standard, section 1264.04 (a)(7), that limits the size of an accessory structure to 66% of the principal building's gross floor area or 800 square feet, whichever is less. On July 12, 2022 Planning Commission approved a Conditional Use (File #PC10-2022) for a Contractor's Office with outdoor storage. The applicant is requesting an accessory structure of 2,000 sq feet in order to have a large enough building to hold all of their supplies.

The business, Rain Brothers, re-located to Yellow Springs in 2022 into the existing building on the property that was previously used as a recording studio. Rain Brothers sells water cistern systems and rainwater harvesting supplies, such as rain barrels, tanks, filters, pumps, etc. Most business activity occurs within the existing structure, with some outdoor storage of equipment. The building was configured to meet the needs of a recording studio and is divided into multiple rooms that make it challenging to accommodate all aspects of the business, especially storage of supplies.

Leatherman stated that the variance is justifiable for the following reasons: The property is zoned Mixed Industrial (I-1) and is presently used for a Light Industrial business, Rain Brothers. The code restricts the size of an accessory structure to the same allowable size in all zones throughout the Village, which is impractical since equipment for industrial uses takes up more space than items associated with residential uses.

Currently, most business activity occurs within the structure, but there is some outdoor storage of equipment. The prior use of the building was as a recording studio and the structure is divided into multiple rooms that make it challenging to accommodate all aspects of the business, especially storage of supplies. In addition, the property and the surrounding 18 acres is restricted to further development due to an on-going environmental remediation project. The restriction and environmental remediation is expected to continue for several more decades. Furthermore, the business is expanding their customer base and requires additional supply storage area to adequately advance the business.

Reed asked Leatherman whether she thought a change needed to be made to the zoning code to differentiate the industrial districts in terms of accessory structures.

Leatherman responded that this is a rare issue, given the limited industrial zones in the village, but stated that she will make note of this as she reviews the zoning code for amendments.

Reed received confirmation that the only adjoining properties were the former Rabbit Run farm and the Vernay property.

Salmonson received affirmation that there would be no foreseeable impact on this property from the environmental mitigation.

Jonathon Meier addressed BZA members, stating that Rain Brothers has been in business for 17 years, with the last three being in the village.

Meier stated that he wants to be as respectful of neighbors as possible, and to that end commented that the downgrade from Dayton Street south means that the rear of the property is not highly visible from the street.

Reed OPENED THE PUBLIC HEARING.

There being no public, Reed CLOSED THE PUBLIC HEARING.

The Clerk then read the Duncan Standards as follows, calling roll on each standard:

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; Salmonson: Y; Raska: Y; Reed: Y
- (2) Whether the variance is substantial; Salmonson: N; Raska: N; Reed: N
- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance; Salmonson: N; Raska: N; Reed: N
- (4) Whether the variance would adversely affect the delivery of governmental services such as water distribution, sanitary sewer collection, electric distribution, storm water collection, or refuse collection; Salmonson: N; Raska: N; Reed: N
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction; Salmonson: Y; Raska: N; Reed: Y
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; Salmonson: Y; Raska: N; Reed: N
- (7) Whether the existing conditions from which a variance is being sought were self-created; Salmonson: Y; Raska: Y; Reed: Y
- (8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Salmonson: Y; Raska: Y; Reed: Y

Salmonson MOVED to APPROVE the variance of 1,200 square feet, as requested. Reed SECONDED, and the MOTION PASSED 3-0 ON A ROLL CALL VOTE.

VOTE FOR CHAIR

Raska MOVED TO NOMINATE SALMONSON. Salmonson ACCEPTED THE NOMINATION. Reed CALLED THE VOTE, and the NOMINATION PASSED 2-1, with Salmonson voting no in an effort not to appear self-aggrandizing.

AGENDA PLANNING

There were no items for consideration, although Leatherman noted that she will need a variance hearing in the next one-to-two months.

ADJOURNMENT

There being no further business, Salmonson MOVED and Raska SECONDED a MOTION to adjourn. The MOTION PASSED 3-0 on a voice vote. Meeting ADJOURNED at 6:19PM.

Matt Reed, Chair

Attest: Judy Kintner, Clerk



TO: Board of Zoning Appeals
FROM: Meg Leatherman, Planning & Zoning Administrator
REPORT DATE: March 14, 2024
MEETING DATE: Wednesday, March 20, 2024
RE: **BZA01-2024** – Variance at 1425 Brookside Dr.- Fence Height

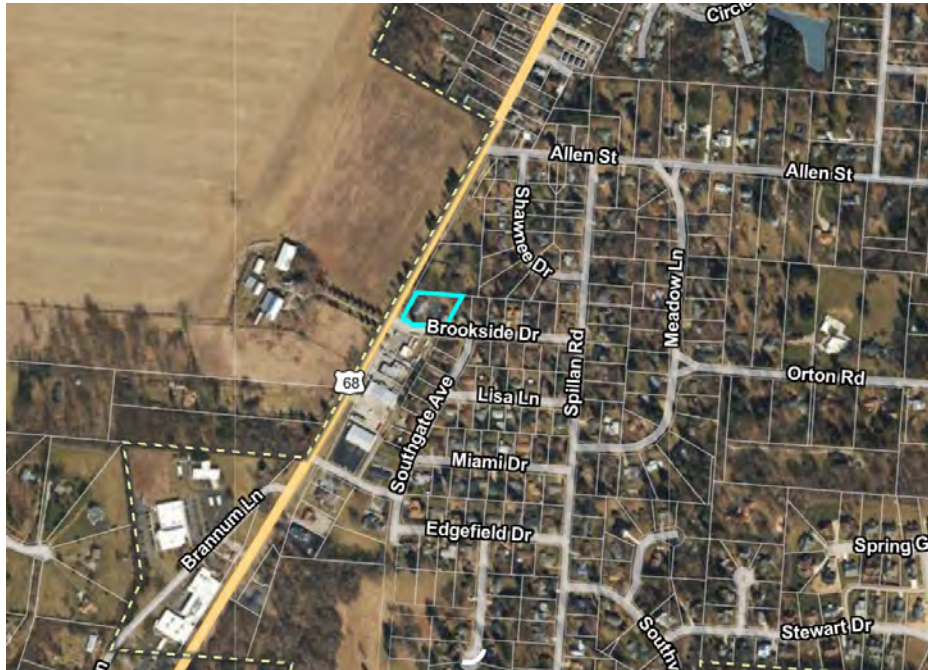
SUMMARY

Max Crome, on behalf of Iron Table Holdings LLC, submitted a Variance application (Exhibit A) seeking relief from Chapter 1260.01(a)(1), for allowance of a fence height of seven (7) feet in the front yards along Xenia Ave and Brookside Drive. The property is located at 1425 Brookside Drive in the General Business (B-2) District, and Gateway Overlay District.

The owner recently acquired the property to convert it to a recording studio business for local and widely-recognized artists. It was previously used as a dentist’s office. Per Village Code Section 1250.02, “Radio, Television and Recording Studios” is a permitted use in the B-2 zone. The applicant received zoning approval for the change of use (File#2023-128) on November 21, 2023 (Exhibit E). In addition, a building permit was approved on November 23, 2023 for interior improvements to re-configure the space to suit the needs of a recording studio. Construction is presently underway, with inspections being performed by NIC.

The code has a separate section specifically for fences and walls, Section 1260.01. Fences in nonresidential zones are allowed to be up to eight (8) feet in height, provided for each foot exceeding six feet there shall be a one and a half foot setback from side property lines (VC 1260.01(6)). It also limits the height to four feet in front yards (VC 1260.01(1)). Since the property has frontage along Xenia Ave and Brookside Drive, it is considered a corner lot, and Village Code Section 1284.06 requires that corner lots have two front yards. Therefore, approval of a variance is required for the portion of the fence exceeding four (4) feet, along Xenia Ave and Brookside Drive. Should this Variance application be approved, a fence permit would need to be submitted and approved by staff, prior to starting construction.

The fence is designed to abut the building wall and extend around the entire perimeter of the property, with a gated access across the driveway entrance (Exhibit A). The applicant is requesting a seven foot fence to ensure sufficient privacy and security. The Board should weigh the factors described below (VC1278.04(a)) and any other factors the Board deems relevant, to determine whether the property owner has shown practical difficulties so inequitable as to justify granting a variance to the property owner.



Vicinity Map

PROJECT DESCRIPTION

ZONING DISTRICT: General Business District (B-2), Gateway Overlay District

APPLICANT: Max Crome

PROPERTY OWNER: REQUESTED ACTION: BZA01-2024 – Variance for allowance of a fence height of seven (7) feet in the front yards – 1425 Brookside Drive – Iron Tables Holdings, LLC

PARCEL ID: F19000100060008500

PUBLIC NOTICE: Adjoining property owners were mailed a notice on March 12, 2024 (Exhibit B), signs were posted on the property on March 11, 2024 (Exhibit C), and a notice was published in the paper on March 8, 2024 (Exhibit D).

APPLICABLE CODE & STAFF FINDINGS

1278.04 VARIANCES. The Board's power to grant variances from the dimensional provisions of the zoning code, including by way of example, lot size, width, setbacks, parking requirements and height, shall be in harmony with the intent and purposes of the code, as provided below.

(a) Variance Standards. Variances from the terms of the code shall be granted only where the applicant shows that the strict application of a zoning requirement causes practical difficulties in the use of the property. The



factors to be considered and weighed by the Board in determining whether a property owner has encountered practical difficulties in the use of the property include, but are not limited to:

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- (2) Whether the variance is substantial;
- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- (4) Whether the variance would adversely affect the delivery of governmental services such as water distribution, sanitary sewer collection, electric distribution, storm water collection, or refuse collection;
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
- (7) Whether the existing conditions from which a variance is being sought were self-created; and
- (8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

(b) The Board shall determine, after weighing the factors described above and any other factors the Board deems relevant, whether the property owner has shown practical difficulties so inequitable as to justify granting a variance to the property owner.

Finding: The proposal has practical difficulties so inequitable as to justify a variance for several reasons. The owner is a world-renowned comedian who has followers who try to contact him regardless of location or standard social practices. He has experienced recent death threats and attacks during public performances. This necessitates a higher level of security.

Part of the intent of the four foot maximum fence height on corners is to ensure visibility for drivers while turning. The proposed location of the fence will not obstruct visibility as it is set back approximately 70' from the edge of pavement on Xenia Ave, and approximately 95' from the centerline of Xenia Ave.

The essential character and impact on the neighborhood would not be substantially altered since the fence will be abutting the building face and blended in with the building design. It is in a business zone and is comparable in nature to the other businesses in the zone. The proposed fence would be setback an additional 1.5 feet from the property line to feel less imposing on adjacent residential properties. In addition, it will be 50' from the existing sidewalk along Xenia Ave and there is not a sidewalk adjoining the property along Brookside Dr.



RECOMMENDATION

The Board shall consider the application (Exhibit A) with the requirements outlined in Section 1278.04. Staff recommends **APPROVAL** of the application with the following conditions:

CONDITIONS OF APPROVAL:

1. Approval of a fence permit prior to commencement of construction of the fence.
2. Approval of a building permit prior to commencement of construction of the fence.

Sincerely,

A handwritten signature in black ink that reads 'Meg Leatherman'.

Meg Leatherman
Planning & Zoning Administrator
Economic Sustainability Liaison
Village of Yellow Springs

EXHIBIT LIST:

- Exhibit A – Application
- Exhibit B – Neighbor Notice
- Exhibit C – Sign Posting
- Exhibit D – YS News Notice
- Exhibit E – Zoning Approval Letter



**Board of Zoning Appeals
Public Hearing Request:
Variance**

Planning & Zoning Department
100 Dayton St, 2nd Floor
Yellow Springs, OH 45387
Office: (937) 767-1702
Fax: (937)767-3720

Case #: BZA01-2024
Hearing Date: 03/20/24

Applicant Information

Property Address:	1425 Brookside Drive, Yellow Springs, OH 45387		
Property Owner:	Iron Table Holdings, LLC	Phone: 443-275-2108	Email: ivy@idavylc.com
Mailing Address:	241 Xenia Avenue, Yellow Springs, OH 45387		
Applicant Name:	Max Crome	Phone: 415-453-0700	Email: max@cromearchitecture.com
Applicant Address:	905 4th Street, San Rafael, CA 94901		

Project Information

I am requesting a variance on the dimensional requirement as outlined in (cite Zoning code section): 1260.01(a)

Description: We would like to ask for an exterior perimeter wall of six feet above grade be allowed as shown on the Site Plan A0.4.V.

Dimensions of Project & Total measurement of Variance requested: The proposed exterior wall is six feet in height which two feet in height of variance request.

Site Plan Attached: Stormwater Mitigation Plan Attached: NA

I understand that approval of this application does not imply approval for any administrative review, conditional use permit, variance, or exception from any other Village regulations which are not specifically the subject of this application. I understand that I remain responsible for satisfying requirements of any easements or private restrictions or covenants affecting the property.

I understand that the Village is not responsible for inaccuracies in information I have presented, and that inaccuracies may result in the revocation of any Zoning permit as determined by the Village. I further certify that I am an owner, or lessee, or agent fully authorized by the owner to make this application. I understand any statements made to me about the time required to process this application are general estimates and not binding. Further, I understand that it may be necessary for the Village to request additional information and clarification after I have submitted this application and accompanying documentation.

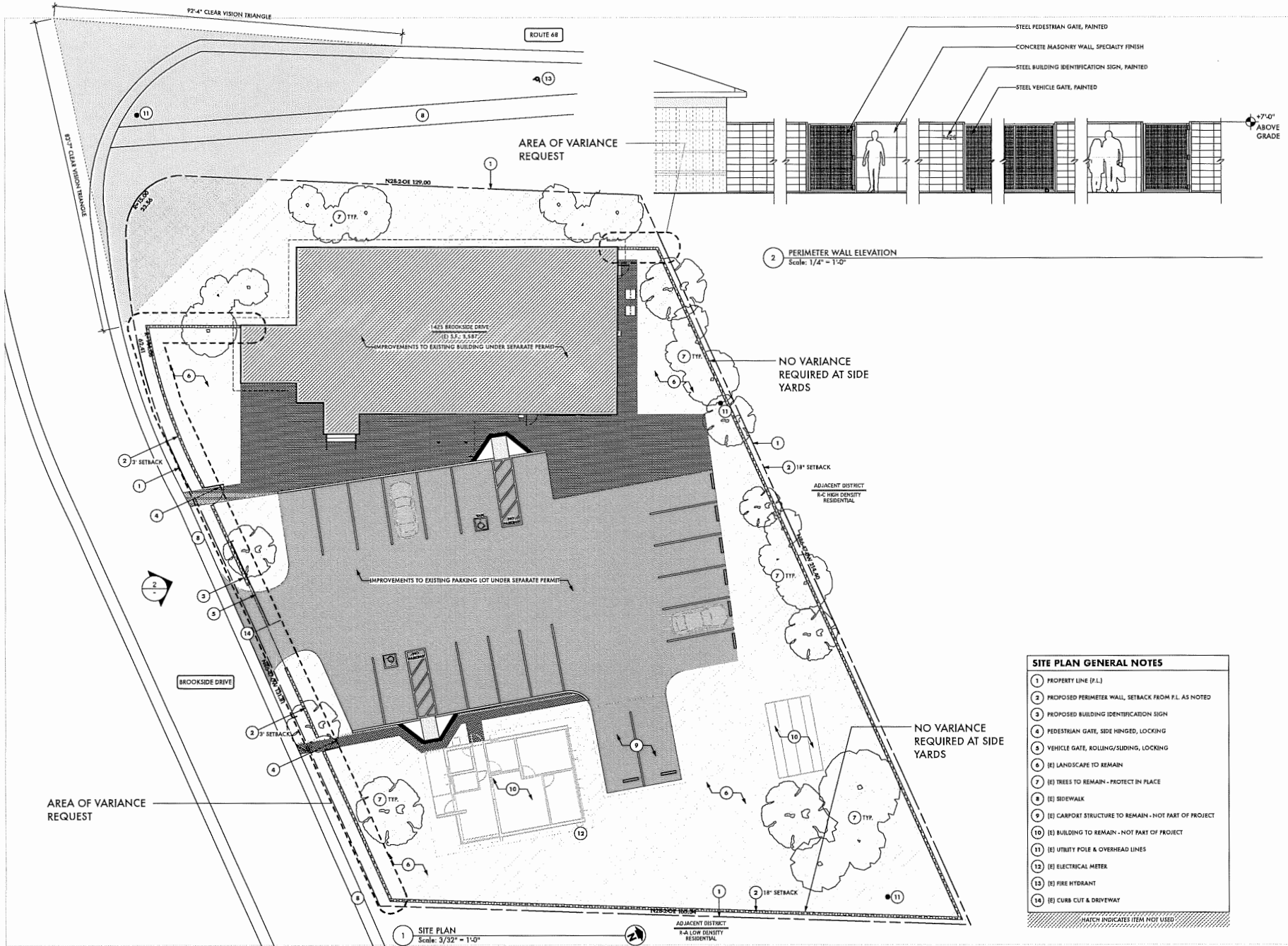
I understand this application is a public record and the property will be posted with signage by Village staff prior to any public hearings and that I am responsible for the cost of repair or replacement if such signage is damaged or removed by non-Village personnel.

I hereby certify under penalty of perjury that I am the applicant and the information and statements I have given on this application, drawings, and specifications are, to the best of my knowledge, true and correct.

Applicant Signature: [Signature] Date: 2.17.24

FOR OFFICE USE ONLY

Zoning Fee: \$ <u>200.00</u>	Payment Type: <input type="checkbox"/> Check <input checked="" type="checkbox"/> Cash <input type="checkbox"/> Card	Approved <input type="checkbox"/> Denied <input type="checkbox"/>
Other fees: \$ _____	Zoning District: <u>B-2</u>	Permit Number: <u>BZA01-2024</u>
Total \$ <u>200.00</u>	Zoning Official Name and Title	Date



604 45987

Cr
CROME YELLOW SPRINGS

604 XENIA AVENUE
 YELLOW SPRINGS, OH

**1425 BROOKSIDE DRIVE
 VARIANCE APPLICATION
 PERIMETER WALL**

YELLOW SPRINGS, OH 45387
 APN: F1900010060008500

STATE OF OHIO
 REGISTERED ARCHITECT

STEVEN PITCHEL
 ARC: 8407721

REVISIONS
 VARIANCE APPLICATION 02/06/2024

SITE PLAN GENERAL NOTES

- 1 PROPERTY LINE (P.L.)
- 2 PROPOSED PERIMETER WALL, SETBACK FROM P.L. AS NOTED
- 3 PROPOSED BUILDING IDENTIFICATION SIGN
- 4 PEDESTRIAN GATE, SIDE HINGED, LOCKING
- 5 VEHICLE GATE, ROLLING/SLIDING, LOCKING
- 6 (E) LANDSCAPE TO REMAIN
- 7 (E) TREES TO REMAIN - PROTECT IN PLACE
- 8 (E) SIDEWALK
- 9 (E) CARPORT STRUCTURE TO REMAIN - NOT PART OF PROJECT
- 10 (E) BUILDING TO REMAIN - NOT PART OF PROJECT
- 11 (E) UTILITY POLE & OVERHEAD LINES
- 12 (E) ELECTRICAL METER
- 13 (E) FIRE HYDRANT
- 14 (E) CURB CUT & DRIVEWAY

HATCH INDICATES ITEM NOT USED

SITE PLAN
 VARIANCE APP.

SHEET NUMBER
A0.4.V

1278.04 VARIANCES. The Board's power to grant variances from the dimensional provisions of the zoning code, including by way of example, lot size, width, setbacks, parking requirements and height, shall be in harmony with the intent and purposes of the code, as provided below.

(a) Variance Standards. Variances from the terms of the code shall be granted only where the applicant shows that the strict application of a zoning requirement causes practical difficulties in the use of the property. The factors to be considered and weighed by the Board in determining whether a property owner has encountered practical difficulties in the use of the property include, but are not limited to:

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

In order to create a reasonable return, the intent is to create a recording studio for both local artists and widely recognized recording artists. It is essential to provide a visual barricade to avoid the security risks associated with over-zealous fans and persons with bad intentions seeking to interfere with celebrity personalities.

(2) Whether the variance is substantial;

We do not feel that the variance is substantial for the following reasons:

- Along Xenia Avenue approximately 75% of the enclosed area is created by the building itself, 25% is the new wall designed to abut and complement the building.

- A variance is only required in the front yard, because the side yards do not require a variance. The code allows fences to be up to 8' in nonresidential districts.

(3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

This variance will not alter the essential character of the neighborhood. The project fits nicely with the mixed character of the buildings in the B-2 district that starts at Brookside Drive and continues South on Route 68.

(4) Whether the variance would adversely affect the delivery of governmental services such as water distribution, sanitary sewer collection, electric distribution, storm water collection, or refuse collection;

The proposed variance will not adversely affect any of the services listed above. The local garbage collection service will coordinate with the management of the facility to gain access as required.

(5) Whether the property owner purchased the property with knowledge of the zoning restriction;

The owner was unaware of the particular code provision that limits the height of walls.

(6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

No other measures would provide the same amount of security for the users of this facility.

(7) Whether the existing conditions from which a variance is being sought were self-created; and
No existing conditions were created by the owner that necessitate this variance request.

(8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

The intent of walls and fences is to create an appropriate level of privacy and security based on the needs of the property they enclose. We believe that the seven-foot (7') fence is the minimum height to provide an appropriate measure of protection for the use of the property and therefore meets the intent of the code and that the granting of the variance is just.

(b) The Board shall determine, after weighing the factors described above and any other factors the Board deems relevant, whether the property owner has shown practical difficulties so inequitable as to justify granting a variance to the property owner.



-Public Notice-

PUBLIC HEARING

VILLAGE OF YELLOW SPRINGS BOARD OF ZONING APPEALS

Notice is hereby given that:

- 1) **Variance Request**– General Business District (B-2) – 1425 Brookside Drive, Iron Table Holdings, LLC has submitted an application for a variance seeking relief from Chapter 1260.01(a)(1), for allowance of a fence height of seven (7) feet in the front yard. **Greene County Parcel ID # F19000100060008500**

A PUBLIC HEARING WILL BE HELD ON THIS PETITION BY THE VILLAGE OF YELLOW SPRINGS BOARD OF ZONING APPEALS ON:

DATE: Wednesday, March 20, 2024 TIME: 5:00 p.m.

This notice provides you and every other interested party the opportunity to have input at the hearing. You may express your views in writing for inclusion in the record of the hearing by providing a copy to the Clerk of Council at clerk@yso.com, or by calling 937-767-9126. Please submit your letter by no later than **Thursday, March 14, 2024 for inclusion in the Commission packet: however, all letters received any time prior to the hearing will be provided to the Commission members and the Zoning Administrator.** The applications, as prepared by the petitioners, may be examined at the office of the Zoning Administrator on the 2nd floor of the Bryan Community Center, 100 Dayton Street, Yellow Springs, Ohio 45387 or on the Village website at www.yso.com after Friday, March 15, 2024. Questions regarding the applications, zoning code or procedures may be directed to the Zoning Administrator Meg Leatherman, phone (937) 767-1702 or by email to mleatherman@yso.com.

YS News: Publish March 8, 2024 - Provide affidavit.



**A VARIANCE
REQUEST INVOLVING
THIS PROPERTY
WILL BE HEARD**

MARCH 20 5:00 PM

**LIVE on CHANNEL 5 & WWW.YSO.COM
CALL (937) 767-9126**



100 Dayton St.
Yellow Springs, OH 45387

November 21, 2023

Steve Pitchel
604 Xenia Ave.
Yellow Springs, OH 45387

RE: Zoning Compliance for 1425 Brookside Dr.; Parcel ID: F1900010006008500

Mr. Pitchel,

Your zoning compliance application has been approved for a Recording Studio in the B-2, General Business District. There are two buildings that exist on the property. The smaller building, on the east side of the property, is for office use, or per Village Code 1250.02 "Offices for executives, administrative, professional, real estate, accounting and similar professional activities", and has an approved building permit from July 2023. The larger building, on the west side of the property, was previously used as a dental office, or per Village Code 1250.02 "Medical and dental offices and clinics". The use "Radio, Television, and recording studios" is an existing permitted use in the B-2 zone, as long as you maintain compliance with applicable Village ordinances, no further zoning action is required to establish the use.

There is an existing parking lot that was established under the prior uses. There are 22 existing parking spaces. The existing code has different parking space requirements based on the type of use (VC 1264.02). For "Business offices or professional offices of lawyers, architects, or similar professionals", which is the most similar to the use on the small building, 1 space per 300 square feet of UFA is required. Since "Radio, Television, and recording studios" is not listed in the parking requirement table in Village code, we will use what is most similar in function, "Business offices or professional offices of lawyers, architects, or similar professionals", which has a requirement of 1 space per 300 square feet of UFA. The total UFA for both buildings is 4,487 sq ft. This equates to a total of 15 required parking spaces. The parking plan submitted (enclosed) provides for 21 parking spaces, which exceeds our minimum requirement.

While our code does not require bicycle parking, we encourage you to provide a bicycle parking location.

Please be aware of the following:



100 Dayton St.
Yellow Springs, OH 45387

- Building permits are submitted to the Village of Yellow Springs at permits@yso.com. Building Plans and inspection are completed by NIC who can be reached at 937-733-4642.
- Any new sign will require a sign application and approval form the Village of Yellow Springs (VC 1266).
- Any use of the public right-of-way (sidewalks or street) requires approval of a Working in the Right-of-way permit in advance of use.
- All light fixtures shall be direct cut-off fixtures, designed to prevent light spill or trespass beyond the boundaries of the property where the fixture is located (VC 1260.05).

Please let me know if you have any questions or need any further assistance. I can be reached at (937) 767-1702 or via email at mleatherman@yso.com.

Sincerely,

A handwritten signature in black ink that reads 'M Leatherman'.

Meg Leatherman
Planning & Zoning Administrator
Economic Sustainability Liaison
Village of Yellow Springs

Cc: Kori Grim, Iron Table Holdings