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MEMORANDUM

To: Tallmadge Charter Township Zoning Board of Appeals
From: Alexis C. Gulker
Date: November 18, 2025
Re: Mills – Dimensional Variance Requests

Attached is an application the Tallmadge Zoning Board of Appeals (ZBA) saw back in August of 2024 for two-dimensional variance requests from Jason Mills for property located at 10240 4th Avenue, parcel number 70-10-36-260-015. The property is located within the Single-Family Residential Zoning District R-1. The application is back before the ZBA due to Mr. Mills not completing the requirements to receive a building permit and getting final approval of the deck within the time limitation required in Section 21.09 of the Tallmadge Charter Township Zoning Ordinance (TCTZO). Therefore, the approval from August of 2024 has expired and the application is back before you.

The applicant seeks relief from Section 7.04(b) – R-1 Single Family Area Regulations and Section 17.04(d)2 – Nonconforming Structures of the Tallmadge Charter Township Zoning Ordinance (TCTZO) to construct a 200 square foot deck, at a front yard setback of 12 feet which is less than the required front yard of 50 feet in the R-1 Single Family District. In addition, the proposed deck would be an expansion of a nonconforming structure because it currently does not meet the required setbacks of the district.

The application has been reviewed and found complete.

Property Details and Background

Mr. Mills' house was built in 1960 and half of his house is within the 50-foot front yard setback required in the R-1 Zoning District. Additionally, his property has two front yards; first on the west side abutting 4th Avenue, and second on the south side of the property an easement serves properties to the southeast. On the northwest and northeast side of his property it abuts Fennessy Lake. The lot is 1.07 acres. Given this house predates the current TCTZO and half of the house is nonconforming due to being in the front yard setback, Mr. Mills has argued it would be hard to put the deck anywhere else.

Mr. Mills did construct this deck and put a slider on the house without a zoning certificate of compliance and without proper building permits. Currently the deck is up and being used. The Township has been to an informal hearing where he did show, and the Magistrate did instruct him to apply for the proper permits. Mr. Mills then did apply for a building permit for the deck and slider, but we could not authorize zoning approval due to it being in the front yard setback and could not approve the slider due to the deck not being allowed. We then had a formal hearing regarding the deck and slider where Mr. Mills did not show, and the court ordered he either apply for a variance or revise the site plans to move the deck to a complaint location to allow for zoning and building permits and remove the slider from its current location and replace with a window that was there prior to construction. If Mr. Mills did not comply, the Township could go in and take down the deck and replace the slider with a window and levy appropriate fees thereof. Thus Mr. Mills applied for a variance. The variance was approved by the ZBA in August 2024, and Mr. Mills received zoning approval. However, he did not respond to PCI's attempts to contact him regarding the necessary building permit and required inspections. As a result, the approval has expired, and we went to a formal hearing in which the Judge asked the township to go to Mr. Mills house and ask him to reapply for a variance

before going forward with other measures. We were able to get a hold of him when we went to his house, and he has now reapplied for a new variance.

Dimensional Request

As aforementioned, the applicant seeks the following dimensional variances:

1. A front yard setback of 12 feet where the minimum front yard required is 50 feet
2. Expanding a nonconforming structure where it does not conform with the zoning district yard regulations, therefore enlarging the nonconformity.

Standards for Review

As you know, you are required to examine your Standards for Review (Section 21.07(d) below) to appropriately consider the request, and in order to grant a variance, all of the standards shall be met. In an effort to assist with your review, we provided our comments in italic font for each standard.

(d) Standards for Review - Dimensional Variance. For a dimension variance, the Board of Appeals must find that all of the following facts and conditions exist.

1. There are exceptional or extraordinary circumstances or conditions applying to the property in question, as to its intended use, that do not apply generally to other properties or classes of uses in the same zone.

As aforementioned, the house was built in 1960 and half of it is located within the front yard setback of the property and it has two front yards. Given this, the exceptional or extraordinary circumstances do not generally apply to other R-1 Zoning District properties.

2. The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties or classes of uses in the same zone. The possibility of increased financial return shall not of itself be deemed sufficient to warrant the granting of a variance.

The applicant argues the variance is necessary to have a deck on the property to overlook the lake, which is a very common property element similar to many other properties for residential use in the same zoning district when they abut a lake.

3. The variance, if granted, will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Ordinance or the public interest.

While the intent and purpose of the TCTZO is to eliminate nonconformities over time, public comment from adjacent property owners may provide an overview of any concerns they have with the small front yard for the Zoning Board of Appeals to determine if the front yard would be detrimental to the public. Otherwise, we do not believe the variance will be of substantial detriment to adjacent property or impair the intent and purpose of the Zoning Ordinance.

4. The condition or situation of the property or its intended use is not of so general or recurrent a nature as to make reasonably practicable a general regulation for the condition or situation.

Given half of the house is within the front yard setback requirement, the condition or situation of the property doesn't generally apply to other R-1 Zoning District properties.

5. Any exceptional or extraordinary circumstances applying to the property in question are not self-created.

The location of the house is not self-created by the applicant. The house has been in this location since 1960 and predates the current TCTZO. However, the location of the deck is self-created by the applicant, but the applicant argues the location of the deck is the only place that makes sense on the house because of the layout of his house and the lake. In the instance the Zoning Board of Appeals concludes that a variance is appropriate for some amount of deck, the Zoning Board of Appeals may only grant the minimum variance necessary to reasonably use the property. In other words, the Zoning Board of Appeals does not have to grant the entirety of the variance request (and resulting deck).

As you are aware, the dimensional requests require a majority vote of the membership.

Public Hearing

The application has been scheduled for a public hearing at your December 2, 2025, meeting at 7:00pm. If you have any questions, please let us know.

A handwritten signature in black ink that reads "Alexis Gulke". The signature is written in a cursive, flowing style.

Associate Planner

Attachment

cc: Mark Bennett, Supervisor