

#### STAFF REPORT

Board of Zoning Appeals

Meeting Date: October 16, 2024

Case #: BZA-2024-251 Address: 7479 E. Harbor Road

**Appellant:** Gabe Gerard, Owner **Zoning**: "R-C" Recreational Comm.

Request: Request for an Area Variance from Section 5.2.D.iii to allow for a leanto/porch

addition onto an existing garage to encroach into the east, side-yard setback (0' proposed/ 5' required) and Section 7.12.3.A to allow more square footage to be added onto a nonconforming structure than permitted (20%; 80s.f. allowed/ 28%;

112s.f. proposed).

#### **SUMMARY:**

The applicant is proposing a 7' x 16' leanto/ porch onto the north side of the existing detached garage. The proposed new leanto/ porch covering will be 0' from the east, side property line where 5' is required. The existing garage structure is nonconforming because it sits approximately 3' from the east, side property line where 5' is required. The original structure is 20' x 20' and consists of 400s.f. 20% would have allowed for 80s.f. of a porch addition to be added.

#### **ANALYSIS:**

Staff provides the following analysis of the decision standards the Board utilizes in their deliberations for deciding whether the request should be approved or denied. The Board is not obligated to agree in whole or in part with any of Staff's review:

The property in question will yield a reasonable return and can be beneficially used without the variance because the property can continue to be used for a single-family residence with a detached garage.

Whether the request is substantial or not can be debated. On the one hand the garage is preexisting and already encroaches into the side-yard setback and the leanto is co-used by the neighboring property owner that it would be closest to. The lot is also quite irregular with sharply angled lot lines making structures tough to conform to the setback angles. On the other hand, had a permit been applied for prior to construction, the applicant would have been advised of the setback restrictions and size limitation, and could have built the leanto differently to be more compliant.

The essential character of the neighborhood would not be substantially altered or suffer a substantial detriment as a result of the variances because the leanto addition is only visible to those utilizing the garage and is in scale with the building.

There is no indication that there would be a detrimental effect on the delivery of government services since utilities are existing and available to the property.

The applicant's narrative statement says they were not aware of the zoning requirements at the time they purchased the property in 2017. However, the property owner received prior permits in 2019 for improvements to the house and was aware of the setback requirements at that time.

The property owner's predicament can be obviated through some method other than a variance by reducing the size of the leanto, but whether that is a feasible option at this point is questionable based on how the leanto is constructed.

The spirit and intent of the zoning resolution would be met because there are no known negative impacts to adjoining property owners.

#### STAFF RECOMMENDATION:

None.

SUBMITTED BY:

Kathryn A. Dale, AICP

Danbury Township Zoning Inspector

Date Prepared: September 30, 2024

List of Exhibits Enclosed:
Exhibit 1: BZA Application

Appellants Narrative Statement

Adjacent property owners' notification list

Property Deed

Refused Permit Exhibit 2:

Site plan Photos A-G



/	Danbury Township, Ohio	BOARD OF ZONING APPEALS APPLICATION					
ľ	5972 E. Port Clinton Rd. Marblehead, Ohio 43440  ≅: (419) 734-6120 F: (419) 734-3137  ⊕: www.danburytownship.com	Date Filed: 9 27 24 Application #: 2024-25   Action:  Rejected Permit: 2024-238 Approved Permit:					
1.	Property Location: 7479 E. Harbor Road						
	Parcel ID# 0141176215726000	Zoning District : "R-C" Recreational Comm.					
	Attach Deed Fo.	r Complete Property Legal Description					
	Existing Use SF Home	Proposed Use 7' x 16' Leanto/Porch addition on garage					
2.	Agent	Address					
	City	StatePhone					
	Email:						
3.	Appellant/ Owner Gabe Gerard	Address 534 Sandalwood Drive					
	CityBay Village	State Ohio Zip 44140 Phone (216) 244-3593					
	Email: gerard@totsolgrp.com						
	Use an additional application	n if there is more than one owner making the request.					
4.	Specific Request:  Area Variance  Use Variance  Special Exception  Conditional Use  Appeal  Chapter / Section  Request for an Area Variance from Section 5.2.D.iii to allow for a leanto/porch addition onto an existing garage to encroach into the east, side-yard setback (0' proposed/ 5' required) and Section 7.12.3.A to allow more square footage to be added onto a nonconforming structure than permitted (20%; 80s.f. allowed/ 28%; 112s.f. proposed).						
	Attached Narrative Statement						
	Attach Separate Narrative Statemen	nt Describing The Request If Additional Space Is Needed.					

- 5. Attach a Narrative Statement with a response to each Decision Standard listed in Attachment "A" hereto, as is relates to the specific request.
- 6. Maximum 11" x 17" sized drawings. Attach a scaled site plan/ plot plan showing the dimensions of the property, location of roads, size and location of existing and proposed structures, including but not limited to driveways, patios, sidewalks and decks, as well as the setback distances from the property lines to each of these aforementioned items on

the property. Elevations shall also be submitted when applicable. Applications for signs shall include all drawings depicting the size, height and location of the proposed sign.

- 7. A typewritten list of the names & addresses of the property owners contiguous to and directly across the street from the property involved.
- 8. Photographs or any other information and documentation as it relates to the request being made.

An application is hereby made for an appeal before the Danbury Township Board of Zoning Appeals (BZA). It is understood and agreed to by the appellant(s) and agent(s) that the Board of Zoning Appeals is a quasi-judicial Board. The BZA's primary function is to hear testimony and issue a decision. The BZA only hears relevant, sworn testimony from the Appellant, his/her duly appointed agent or attorney, and any other person with standing to testify in a particular matter. The Appellant has the right to cross-examine any testimony given. Hearings are open to public attendance. Unless appealed to the judicial system, the subject property shall comply with the decision rendered and the laws of the State of Ohio, and; should an application be granted, a permit shall be applied for and issued 30 days after such decision is rendered. The Appellant and Agent hereby certify that the information and statements given on this application, drawings and specification are to the best of their knowledge, true and correct.

	gned:to Appellant:	Expiration of App  Date:	roval:	
BZA Action:	Approved Deni	ed Approved w/ Co	nditions Vote:	
Notice Sent to N	leighboring Property	owners: 9/30/	24	
Notice Sent to Ne	wspaper: <u>9 30 2</u>	Published: 10	5/24	
BZA Hearing Da	te: 10/16/24	-		Application #: 2024-25
		ZONING SUMM	IARY	
		Do not write below t	nis line	
		THE BZA DOCKET CAL OR LATE APPLICATIONS		
	Cash/ Check #	List of neighboring	property owners provided?	? Yes No
Filing Fee = \$200.00	Legal Ad Fee \$	Postage Fee \$	Total Fees Paid \$	Amount Invoiced \$
<del></del>	(Appellant's Signatur	re)		(Date)
	(Appellant's Signatur	Jerard		09/27/2024
	(Agent's Signature)			(Date)

# Applicant's Narrative Statement & Response to Decision Standard's

### 7479 E. Harbor Road Gerard

Scope of Work:								
	Add a "lean to" off the north side of the garage to be used a cover grilling station.							
Decisio	Decision Standards:							
A.	The property in question <b>cannot</b> be used beneficially or functionally without the variance <u>because</u> we need the full space otherwise it would not fit our grills that we share with the neighbors. The space would be extremely tight if we are not able to receive approval for a variance.							
В.	The variance is substantial to us because it allows us to share space with our neighbors.							
C.	The essential character of the neighborhood <b>would not</b> be substantially altered by the variance and adjoining properties <b>would not</b> suffer a substantial detriment as a result of the variance because the lean to will be small, but will be aesthetically pleasing and only add to the character.							
D.	The variance <b>would not</b> adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because it will be on the north side of the garage, completely away from the driveway and lane to get to our cottage.							
E.	The property owner <b>did not</b> purchase the property with knowledge of the zoning restriction because it was not an issue at the time of purchase.							
F.	The property owner's predicament <b>cannot</b> feasibly be obviated through some method other than a variance because it is simply too small of an area to use functionally without the variance.							
G.	The spirit and intent behind the zoning requirement <b>would</b> be observed and substantial justice done by granting the variance because it will provide an enjoyable and functional space for our neighbors and us to use the grilling station without being exposed to the elements.							
Н.	Other relevant factors, if any, considered include <u>our neighbors agreed to this request as it is a space that will be used together and does not infringe on their yard or space. The 3 cottages share a communal lake front area that we all take care of and maintain as a group.</u>							

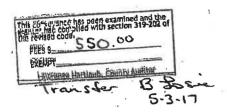
Jerry and Amy Reutlinger 502 Highland Ave St. Joseph, MI 49085

Bradley and Pam Miller 97 N Margaret Dr 43440

Andrea and Jeffery Roth Marblehead address is 7489 E Harbor Rd

Home address 301 Glendale Ave Findlay, OH 45840

201700266822
Filed for Record in
OTTAWA COUNTY, OHIO
VIRGINIA M PARK, RECORDER
05-03-2017 At 10=10 am.
SURV DEED 44.00
OR Book 1630 Pase 887 - 8



## SURVIVORSHIP DEED WARRANTY

KNOW ALL MEN BY THESE PRESENTS, that, Vickie L. Kuntz and David V. Kuntz, Wife and Husband, Grantor(s), for valuable consideration paid, grants, with general warranty covenants, to Jason Weaver and W. Gabriel Gerard, Grantee(s), for their joint lives, remainder to the survivor of them, whose tax-mailing address is 32138 Ventanas Circle, Avon Lake OH 44012, the following described REAL PROPERTY:

See Exhibit A - Legal Description

Permanent Parcel No.:

0141176215726000

Prior Instrument Reference:

Volume 1443, Page 644

Property Address:

7479 East Harbor Road

Lakeside Marblehead, OH 43440

EXCEPTION TO THE WARRANTIES: Except as herein before provided, and excepting all easements, rights-of-way, reservations, leases, conditions and restrictions of record, if any, zoning ordinances and real estate taxes and assessments, both special and general, not yet due and payable.

Executed this 77 day of April, 2017.

State of Ohio, County of Lucas, ss:

Be it remembered, that on this 27' day of April, 2017, before me, the subscriber, personally came the above named Vickie L. Kuntz and David V. Kuntz, the Grantor(s) in the foregoing deed, and acknowledged the signing of the same to be his/her/their voluntary act and deed.

In testimony whereof, I have hereunto subscribed my name and affixed my seal

on the day and year last aforesaid.

This Instrument prepared by: Mary R. Porter Attorney At Law 1406 West 6th Street Suite 400\_ Cleveland, OH 44113

File No. 170021OT

VICK! RICE **NOTARY PUBLIC** STATE OF OHIO MY COMMISSION EXPIRES **DECEMBER 17, 2018** 

#### Exhibit A - Legal Description

Known as and being part of Section 2, Lot 17, Firelands Survey, Danbury Township, Ottawa County, Ohio and being more particularly described as follows;

Commencing at a point marking the intersection of the centerline of State Route #163 (varying right-of-way) and the West line of Section 2, Lot 17, Firelands Survey, Danbury Township, Ottawa County, Ohio;

Thence proceeding North 00 degrees 09 minutes 52 seconds East in the West line of said Lot 17, 765.60 feet to a found iron pipe in the South line of a parcel now or formerly owned by Nancy E. Mason as described in Ottawa County Official Record Volume 958 at Page 265;

Thence proceeding North 90 degrees 00 minutes 00 seconds East in the South of the previously mentioned parcel, 50.00 feet to a point in the East line of the previously mentioned parcel, said point is referenced by a found iron pipe 0.07 feet South and 0.11 feet West, and also being the place of beginning of the parcel herein described;

Thence proceeding North 00 degrees 00 minutes 00 seconds East in a East line of the previously mentioned parcel, 47.50 feet to an iron pin set in the Southeasterly line of the previously mentioned parcel;

Thence proceeding North 46 degrees 08 minutes 59 seconds East in the Southeasterly line of the previously mentioned parcel, 52.00 feet to an iron pin set in a East line of the previously mentioned parcel;

Thence proceeding North 00 degrees 00 minutes 00 seconds East in the East line of the previously mentioned parcel, passing through an iron pin set at 133.98 feet, 148.25 feet to a point in the shoreline of East Harbor as located on December 18, 2012

Thence proceeding North 79 degrees 21 minutes 33 seconds East in the shoreline of said East Harbor, 25.44 feet to a point in the West line of a parcel now or formerly owned by Robert J. Boehm as described in Ottawa County Official Record Volume 1133 at Page 821;

There proceeding South 00 degrees 00 minutes 00 seconds West in a West line of the previously mentioned parcel, passing through a found iron pin at 13.98 feet, 147.82 feet to a point in the Southwesterly line of the previously mentioned parcel, said point is referenced by a found iron pipe at 0.35 feet South and 0.53 feet West; Thence proceeding South 52 degrees 20 minutes 30 seconds East in the Southwesterly line of the previously mentioned parcel, 60.00 feet to a point in a West line of the previously mentioned parcel, said point is referenced by a found iron pipe 0.27 feet South and 0.46 feet West:

Thence proceeding South 00 degrees 00 minutes 00 seconds West on a West line of the previously mentioned parcel, 52.00 feet to a point in the South line of the previously mentioned parcel, said point is referenced by a found iron pipe 0.08 feet South and 0.22 feet West;

Thence proceeding South 90 degrees 00 minutes 00 seconds West in the South line

of a parcel now or formerly owned by JOZ of East Harbor as described in Ottawa County Deed Volume 297 at Page 453, 110.00 feet to the point and place of beginning. Said parcel contains 0.267 acres, but is together with and subject to an ingress/egress easement as described in Ottawa County Deed Volume 144 at Page 319. Also, all of the above is subject to all legal highways and easement of record. The above legal description was prepared by Allan W. Weirich, Professional Surveyor #7427, and is based on the assumption that the West line of Section 2, Lot 17, Firelands Survey, Danbury Township, Ottawa County, Ohio bears, North 00 degrees 09 minutes 52 seconds East and is based on a survey performed in December, 2012.

Together with all right, title, and interest, if any, and without warranty, in and to that potion of Lot 17, Section 2, Danbury Township, Ottawa County, Ohio that lies northerly of the shoreline of East Harbor as located 12/18/12, located between the east and west lines of the above described parcel extended northerly.

Together with the non-exclusive use of a common ingress/egress easement to S.R. #163, East Harbor Road as set forth in Volume 144, Page 319, Ottawa County Recorder's Office.

Also subject to an easement recorded in Ottawa County Recorder's Office, Volume 1443, Page 635, for ingress and egress.

Also subject to the benefit and burden of those matters contained in a deed recorded in Ottawa Co inty Recorder's Office, Volume 199, Page 167 and Volume 199, Page 169.

CLEVELAND, OFFIO 44113
Order No. 170021N 5





#### Kathryn A. Dale, AICP Zoning & Planning Administrator

#### NOTICE OF REFUSAL

September 16, 2024

To Applicant/:
Owner

Gabe Gerard

534 Sandalwood Drive

Bay Village, Ohio 44140

Application No.:

24-238

7479 E. Harbor Road

BZA Case No.:

Your application dated SEPTEMBER 13, 2024, for a zoning certificate for a 7' X 16' LEANTO/PORCH ONTO AN EXISTING GARAGE located at 7479 E. HARBOR ROAD, MARBLEHEAD, OHIO 43440 is hereby refused on this 16<sup>th</sup> DAY OF SEPTEMBER, 2024 under Article 3, Article 5 and Article 7 of the Danbury Township Zoning Resolution in that;

Article 3 of the Danbury Township Zoning Resolution and Map designates the location of this property as "R-C" Recreational Commercial.

#### Article 5, Section 5.1.3

#### **General Regulations Applicable to All Districts**

3. No building or structure shall be erected, converted, enlarged, or reconstructed or structurally altered except in conformity with the yard and lot area regulations of the district in which the building is located unless otherwise specified herein.

#### Article 5, Section 5.2.D.iii

**Accessory Buildings** 

Variance #1

D. For lots with a principal building, the following shall apply:

- iii. Shall be no closer than five (5) feet to the principal building, no closer than five (5) feet to the side lot line and no closer than five (5) feet to the rear lot line.
  - The applicant is proposing a 7' x 16' leanto/ porch onto the north side of the existing detached garage.
  - The proposed new leanto/ porch covering will be 0' from the east, side property line where 5' is required.

#### Article 7, Section 7.12.3.A. N

#### **Nonconforming Uses**

- A. The addition to or enlargement of a nonconforming building or structure shall be permitted provided it contains a permitted use and such addition or enlargement does not exceed twenty (20%) percent of the floor area contained in the original building or structure at the time of the adoption of this Resolution. All other requirements of the District (lot area, yards, etc.) shall be met unless a variance is obtained.
  - The existing garage structure is nonconforming because it sits approximately 3' from the east, side property line where 5' is required.
  - The original structure is 20' x 20' and consists of 400s.f.
  - 20% would have allowed for 80s.f. of a porch addition to be added.



 The applicant is proposing to construct a 7' x 16' (112s.f.) addition which results in a 28% increase to the original structure.

Article 7, Section 7.5.1.A states; It shall be unlawful for an owner to use or to permit the use of any structure, building or land, or part thereof, hereafter created, erected, converted or enlarged, wholly or partly, until a zoning certificate/permit shall have been issued by the Zoning Inspector. It shall be the duty of the Zoning Inspector to issue a certificate/permit, provided the Zoning Inspector is satisfied that the structure, building or premises, and the proposed use thereof conform with all the requirements of this Resolution. No certificate/permit for excavation, construction or reconstruction shall be issued by the Zoning Inspector unless the plans, specifications and the intended use conform to the provisions of this Resolution.

**Article 7:** An appeal from this decision to the Danbury Township Board of Zoning Appeals is governed under Section 7.9.2 of the Danbury Township Zoning Resolution. A request for an **Area Variance** is necessary prior to proceeding with the proposed construction.

Please contact the Zoning Department at (419) 734-6120 to obtain the appropriate application and to review the adjudication hearing process if you wish to proceed with the appeal.

Kathryn A. Dale, AICP

Danbury Township Zoning & Planning Administrator

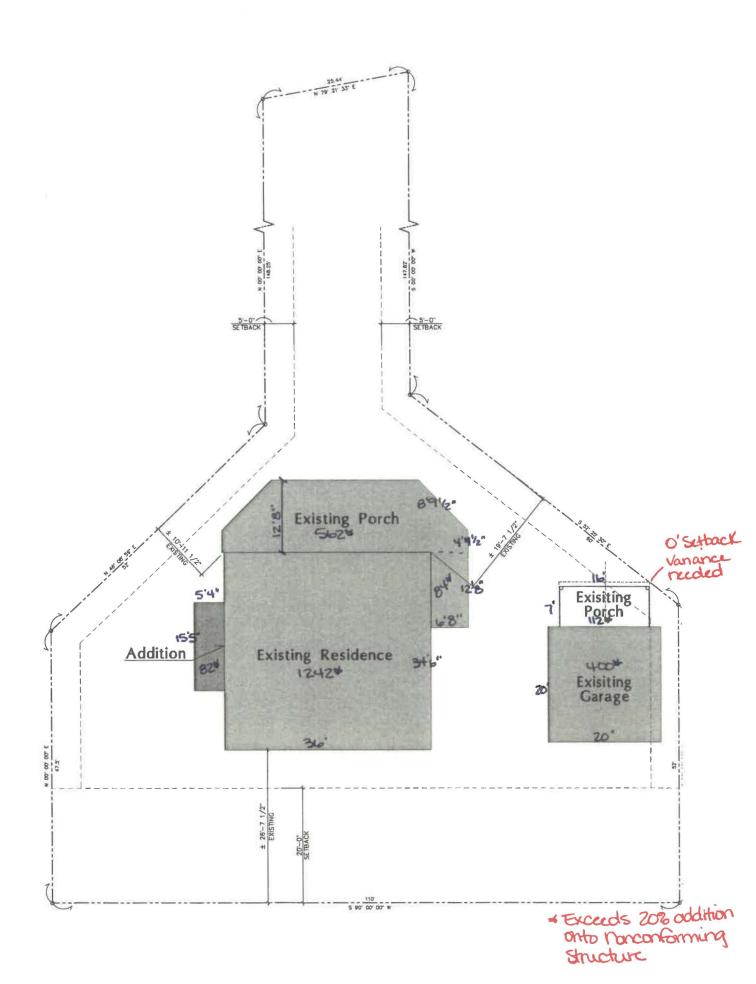
Note: The applicant has 20 days (per Section 7.8.2.A.i.) to submit revisions or to appeal this decision to the Board of Zoning Appeals. A new application will be required, including payment of a new fee, if the applicant fails to submit adequate revisions within this time period. Revisions that address these deficiencies may result in further comments relative to these or other Zoning Code provisions. This review is only for compliance with the zoning regulations. The Ottawa County building departments may also have comments that will need to be addressed before releasing permits.

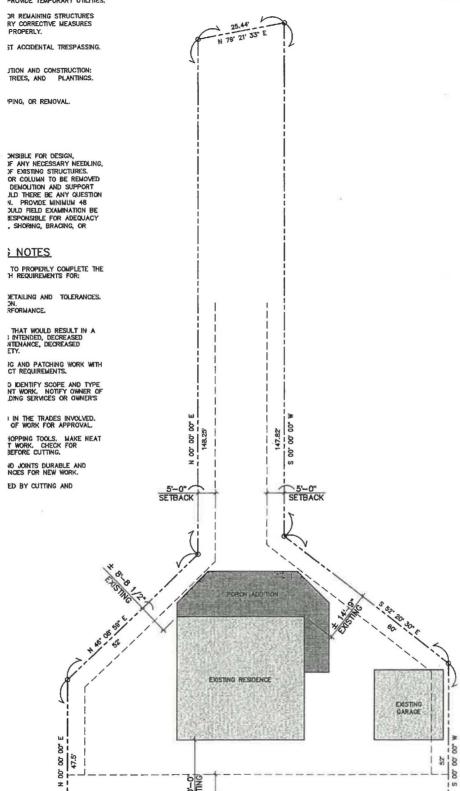
# Danbury Township, Ohio

# **ZONING PERMIT APPLICATION**

M ®	272 E. Port Clinton Rd. Farblehead, Ohio 43440 F: (419) 734-6120 F: (419) 734-3137 F: www.danburytownship.com						ase #:		
1.	1. Property Location: 7479 E. Harbor Road - 0141176215726000								
	Subdivision	Lot	#	Zonin	g District	"R-C"	'Recreational Comm		
	Existing Use SF Home	Pro	posed Use_	7' x	16' Lean	to/ Porcl	h Addition on Garage		
2.	Applicant Gabe Gerard & Jason Weaver		Address	534	Sandalv	vood Dri	ve		
	CityBay Village	_State	Ohio	Zip_	44140	Phone	(216) 244-3593		
	Email: gerard@totsolgrp.com								
3.	Owner Same as Above	Address							
	City	_ State		Zip_		Phone			
	Email:								
4.	Contractor/ Architect The Arcus Group,	, Inc.	Inc. Address 1244 Smith Court						
	City_ Rocky River	_ State	Ohio	Zip_	44116	Phone	(440) 356-5530		
	Email:								
5.	Site Plan: Attach site plan for subje	ct proper	ty. See Inst	ructio	ons & Sa	mple.			
6.	New Single Family (w/Deck)  New Two-Family  New Multi-Family, No. of Units  ✓ Addition  ✓ Accessory Structure  New Multi-Family, No. of Units  Add  ✓ Accessory Structure			desidential Use  ew Building(s)  asions of each Bldg.  ddition  ccessory Structure  emporary Uses - Dates From:  To:					
	Swimming Pools (above or inground) Walls or Fences Temporary Uses - Dates From: Signs - Permanent Temporary Docks sf. Other (specify)		Sig Wa Rer Doo Oth	ns – Polls or I nodel/ oks, Fi	ermanent Fences Tenant I nger, Ma	inish in or Wa	Cemporarysf.		

7.	Project Description: 7' x 16' Lean to/ porch addition onto Ex. Garage.								
8.	Are the proper	ty line pins loca	ted or have you h	ad a recent survey of the lot?	Yes	(yes/no)			
9.	residential use Attach sketch	list total area of lot, showing	f living space per existing buildings	t total square footage of build floor as well as total area of all a and proposed construction or un owing information:	applicable attach	ments to the structure.			
		Existing	Proposed		Existing	Proposed			
	Basement:	sf.	sf.	Front Yard Setback:	26.5' ft.	Same ft.			
	First floor:	1,888 sf.	sf.	Side Yard Setback:					
	Second floor:	1,275 sf.	sf.	side:	6'ft.	Same ft.			
	Third floor:	sf.	sf.	E side:	3' ft.	0' ft. reeded			
_	Garage/carpor	t: 400 sf.	112 sf.	Rear Yard Setback:	157'+/- ft.	Same ft.			
%	Decks/porches	: 562 sf.	sf.	(Setbacks are from the prop	perty lines, not the e	dge of the road pavement)			
ь ed	Breezeway:	sf.	sf.	Lot Coverage:					
ed	Accessory:	sf.	sf.	A. Principal Building	Footprint:	1,888 sf.			
	Parking:	sf.	sf.	B. Total of Accessory	buildings:	512 sf.			
, )	Other:	sf.	sf.	C. Lot Width x Lot Do	epth = Lot Area:	11,887 <sub>sf.</sub>			
ed ed	Highest point of building above the established grade:ftft. $[(A + B) \div C] \times 100 =%$								
mis wor peri and in t	representation of juid, operate to cau mit at any time. The lithe Zoning Resolution accordance with the	y made for a zo fact or expression of se the issuance of the owner of this bu ution of Danbury to the plans and speci- ation are to the bes	oning certificate. It of fact in the applica a permit in accordantiding or premises and to confications submitted he of their knowledge, applicant's Signatu	ure) o not write below this line	applicant that an on the part of the a ute sufficient grou o comply with all th ure or make the pro	y error, misstatement o pplicant, such as might, o ad for the revocation of th the laws of the State of Ohic posed change or alteration			
(is rej	con the basis of Application No. 24-238 the statements in which are made a part hereof, the proposed usage for sn't) found to be in accordance with the Danbury Twp. Zoning Resolution and is hereby (approved of part for the Zoning District.  Danbury Townsh't Zoning Inspector 5972 E. Port Clinton Road, Marblehead, Ohio 43440  ate Application Received 9 13, 20 24 Fee Paid \$ \$NO FEE Cash/ Check #								
	ate Application l	01	16,2024	If certificate refused, reason for		0.1			









S 90' 00' 00" W





