



## STAFF REPORT

Board of Zoning Appeals  
Meeting Date: November 20, 2024

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<b>Case #:</b>	BZA-2024-280	<b>Address:</b>	9608 E. Bayshore Road
<b>Appellant:</b>	Brad Hutcherson, Owner	<b>Zoning:</b>	“R-3” High Density Res.
<b>Request:</b>	<b>Request for Area Variances from Section 5.2.D.iii to allow for a garage addition onto an existing garage to encroach into the east, rear/side-yard setback (2.5' proposed/ 5' required), Section 5.2.1.A.i.b. to allow more cumulative accessory bldg. square footage than allowed (1,200s.f. permitted/ 1,680s.f. proposed) and to Section 7.12.3.A to allow more square footage to be added onto a nonconforming structure than permitted (20%; 120s.f. allowed/ 180%; 1,080s.f. proposed).</b>		

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### SUMMARY:

The applicant has an existing 24' x 25' (600s.f.) detached garage on the property they intend to keep. Based on the refusal documentation, some of these calculations have changed because there was initially a discrepancy in what the Auditor's records showed for this building vs. what the actual field measurements are for this structure. The applicant is proposing to construct a new 30' x 36' (1,080s.f.) garage addition to the south of the existing garage. This will result in the total cumulative square footage of all accessory buildings to be 1,680s.f. where 1,200s.f. is the maximum permitted. The existing 24' x 25' detached garage is nonconforming and 3.5' from the foundation to the east, rear/side property line (2.5' once the roof overhang is taken into consideration) where 5' is required. The applicant is proposing to align the new garage addition with the east wall of the existing garage, which will maintain the 2.5' setback to the east rear/side property line. 20% of the original 600s.f. structure would have allowed for 120s.f. of an addition to be added. The applicant is proposing to construct a 30' x 36' (1,080s.f.) addition which results in a 180% increase to the original garage structure.

### 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 and is permitted to have an accessory structure on the property.

Whether the request is substantial or not can be debated. On the one hand the garage is more than doubling in size. On the other hand, the additional garage space is not getting any closer to the rear lot line than the existing garage and despite the amount of square footage being added to the garage, the lot coverage and other zoning requirements are more than satisfied.

The essential character of the neighborhood would not be substantially altered or suffer a substantial detriment as a result of the variances because the new structure will be the same distance from the rear property line as the existing garage and otherwise meets all other zoning requirements as far as setbacks, height and lot coverage.

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 and any utility extensions will have to be installed to those regulating agencies standards.

The applicant's narrative statement says they were not aware of the zoning requirements at the time they purchased the property in 2020.

Whether the property owner's predicament can feasibly be obviated through some method other than a variance can likely be debated. On one hand the new garage addition could be set-in to meet the rear/side yard setback requirement, but since the existing garage is nonconforming, the property owner would need to have a variance no matter what on the addition to it, even to meet the 1,200s.f. maximum allowed. It could also be argued that the new garage doesn't have to

be added onto the existing building and could have been its own stand-alone structure. However, that would have required a variance to the cumulative square footage.

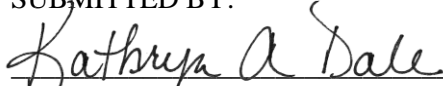
The spirit and intent of the zoning resolution would be met because there are no known negative impacts to adjoining property owners.

**STAFF RECOMMENDATION:**

None.

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SUBMITTED BY:



Kathryn A. Dale, AICP  
Danbury Township Zoning Inspector

*Date Prepared: October 25, 2024*

**List of Exhibits Enclosed:**

- Exhibit 1: BZA Application  
Appellants Narrative Statement  
Adjacent property owners' notification list  
Property Deed
- Exhibit 2: Refused Permit  
Site plan  
Addition Plans



Danbury Township, Ohio

5972 E. Port Clinton Rd.  
Marblehead, Ohio 43440  
☎: (419) 734-6120 F: (419) 734-3137  
🌐: [www.danburytownship.com](http://www.danburytownship.com)



# BOARD OF ZONING APPEALS APPLICATION

Date Filed: 10/25/24 Application #: 2024-280

Action: \_\_\_\_\_

Rejected Permit: 2024-244 Approved Permit: \_\_\_\_\_

1. **Property Location:** 9608 E. Bayshore Road

Parcel ID# 0141235216472000 & 0141235216474000 Zoning District : "R-3" High Density Res.

*Attach Deed For Complete Property Legal Description*

Existing Use \_\_\_\_\_ SF Home \_\_\_\_\_ Proposed Use \_\_\_\_\_ 30' x 36' Garage Addition \_\_\_\_\_

2. **Agent** \_\_\_\_\_ Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_

Email: \_\_\_\_\_

3. **Appellant/ Owner** Brad Hutcherson Address 171 Brookfield Road

City Avon Lake State Ohio Zip 44012 Phone (216) 276-1374

Email: bhutcherson@trustusing.com/ ezhutcher@gmail.com

*Use an additional application 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 Sec. 5.2.D.iii to allow for a garage addition onto an existing garage to encroach into the east, rear/side-yard setback (2.5' proposed/ 5' required), Sec. 5.2.1.A.i.b. to allow more cumulative accessory bldg. square footage than allowed (1,200s.f. permitted/ 1,560s.f. proposed) and to Sec. 7.12.3.A to allow more more square footage to be added onto a nonconforming structure than permitted (20%; 96s.f. allowed/ 225%; 1,080s.f. proposed).

**Practical Difficulty** See Attached Narrative Statement

*Attach Separate Narrative Statement Describing The Request If Additional Space Is Needed.*

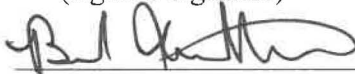
- 5. Attach a Narrative Statement with a response to each Decision Standard listed in **Attachment "A"** hereto, as is relates to the specific request.
- 6. Maximum 11" x 17" sized drawings. Attach a scaled site plan/ plot plan showing the dimensions of the property, location of roads, size and location 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.*

\_\_\_\_\_  
(Agent's Signature)  
  
\_\_\_\_\_  
(Appellant's Signature)

\_\_\_\_\_  
(Date)  
10/25/24  
(Date)

Filing Fee = \$200.00    Legal Ad Fee \$ \_\_\_\_\_    Postage Fee \$ \_\_\_\_\_    Total Fees Paid \$ \_\_\_\_\_    Amount Invoiced \$ \_\_\_\_\_

Cash/ Check # 9436    List of neighboring property owners provided?  Yes    No

**PLEASE REFER TO THE BZA DOCKET CALENDAR FOR SUBMISSION DATES.**  
**INCOMPLETE OR LATE APPLICATIONS WILL NOT BE ACCEPTED.**

 Do not write below this line

**ZONING SUMMARY**

BZA Hearing Date: 11/20/24

BZA Application #: 2024-280

Notice Sent to Newspaper: 11/4/24    Published: 11/9/24

Notice Sent to Neighboring Property Owners: 11/4/24

BZA Action:    Approved    Denied    Approved w/ Conditions    Vote: \_\_\_\_\_

Decision Sheet signed: \_\_\_\_\_    Expiration of Approval: \_\_\_\_\_

Date Letter Sent to Appellant: \_\_\_\_\_

Permit# Issued: \_\_\_\_\_    Date: \_\_\_\_\_



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

9608 E. Bayshore Road  
Hutcherson

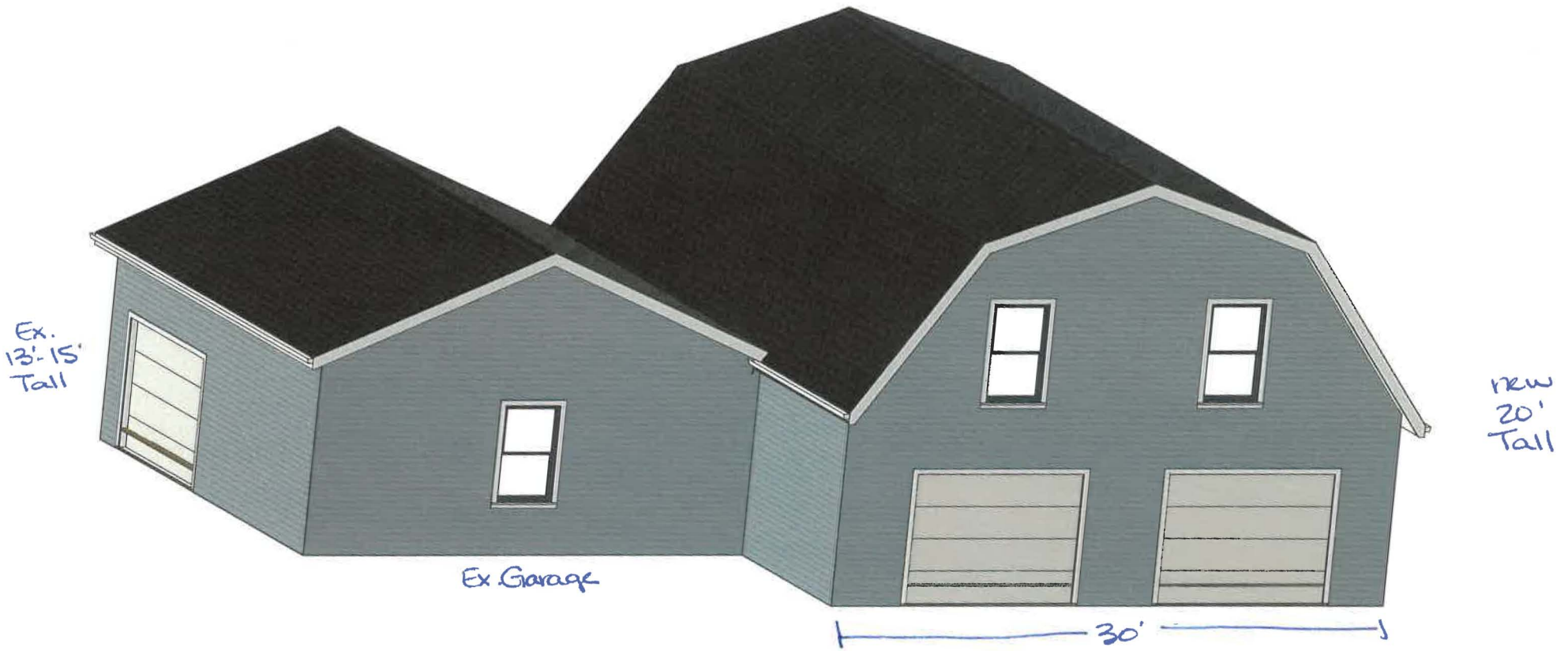
### Scope of Work:

Construct a new garage with an upstairs finished space. This will allow for inside storage of boat and trailer as well as cars and other incidental clutter presently stored outside.

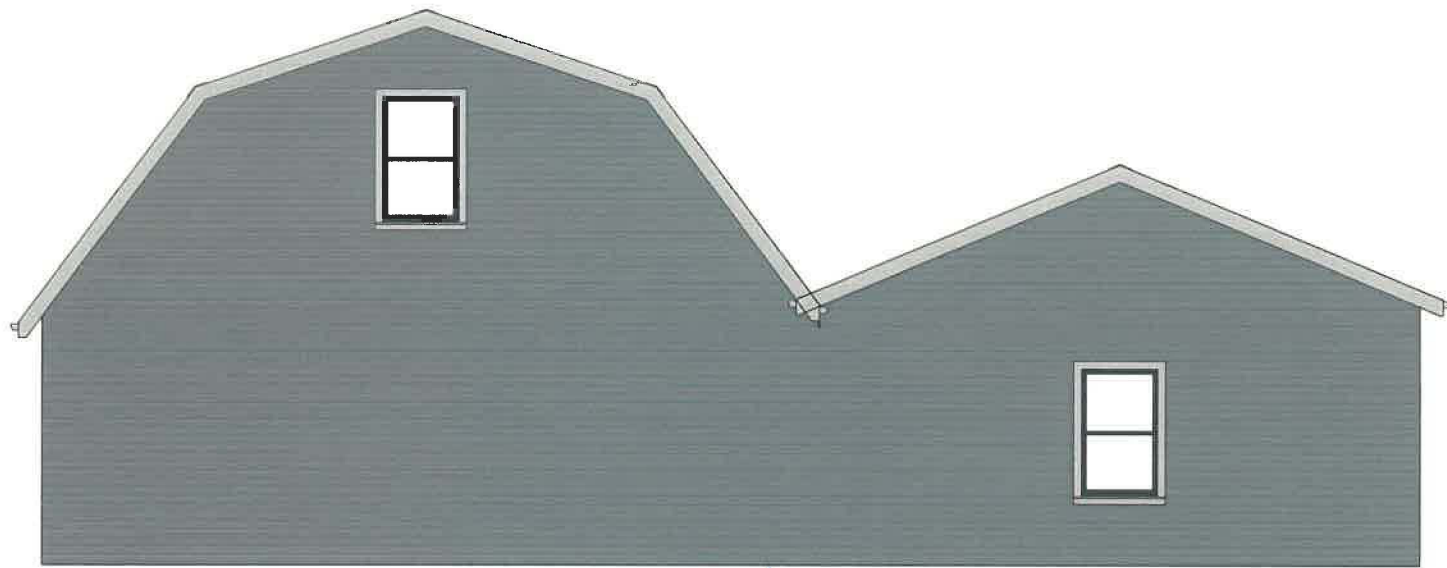
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### Decision Standards:

- A. The property in question (**will**) be able to be used more beneficially with the variance because with the construction of an additional outbuilding, the items currently being stored outside will be able to be stored under cover and out of site creating a cleaner look for the neighborhood.
- B. The variance **is not** substantial because:
  - a.) The existing house and garage are situated on a double lot and total coverage would only be 28.4% after construction. Total outbuilding square footage will be 340 sq. ft. over code, which will fit into the properties' double lot size.
  - b.) By allowing the side yard set back a more natural flow in the building line would occur along the eastern boundary not creating the appearance an addition or after thought.
  - c.) The surrounding properties on Napama have structures of similar same size and shape lending to a unified neighborhood look.
- C. The essential character of the neighborhood **would not** be substantially altered by the variance and adjoining properties **would not** suffer a substantial detriment as a result of the variance because the total lot coverage would still be minimal, and the new structure would also create more privacy for the neighbors, give the neighborhood a cleaner look, as well as help with sound transfer to the neighborhood when outdoors.
- D. The variance **would not** adversely affect the delivery of governmental services (i.e. water, sewer, garbage, etc.) because it is just going to essential be inside storage for cars, boat and lawn equipment, not producing any waste.
- E. The property owner (**did not**) purchase the property with knowledge of the zoning restriction because I thought percentage of total coverage being on a double lot would not be an issue. I did not have an intent to construct an additional structure at the time of purchase, but realized additional inside storage space would improve the look of the property and the neighborhood.
- F. The property owner's predicament (**cannot**) feasibly be obviated through some method other than a variance because the existing structure was build non-conforming to today's standards and altering the building line will create a look that will detract from the overall appearance of the neighborhood.
- G. The spirit and intent behind the zoning requirement (**would** be observed and substantial justice done by granting the variance because the purpose of zoning laws is to prevent structures being built that do not fit in with surrounding buildings or properties. Without the variances, a new standalone structure would add clutter and not look like part of the original property.
- H. Other relevant factors, if any, considered include: the adjoining property also has structures, patios and canopies that exceed the 1,200 square foot area by approximately same amount that we are asking for. Also being on a corner lot creates an unusual circumstance trying to maintain a unified look from 2 separate directions.



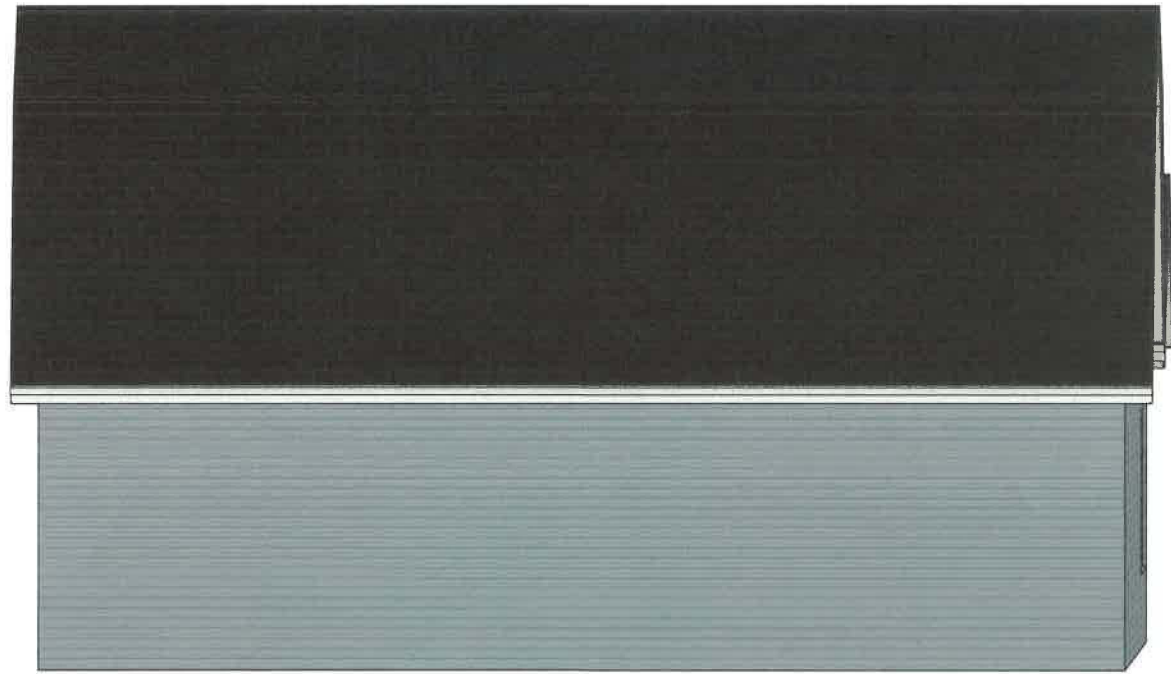
West - Street view  
Elevation / Overview



Proposed Garage

Ex. Garage

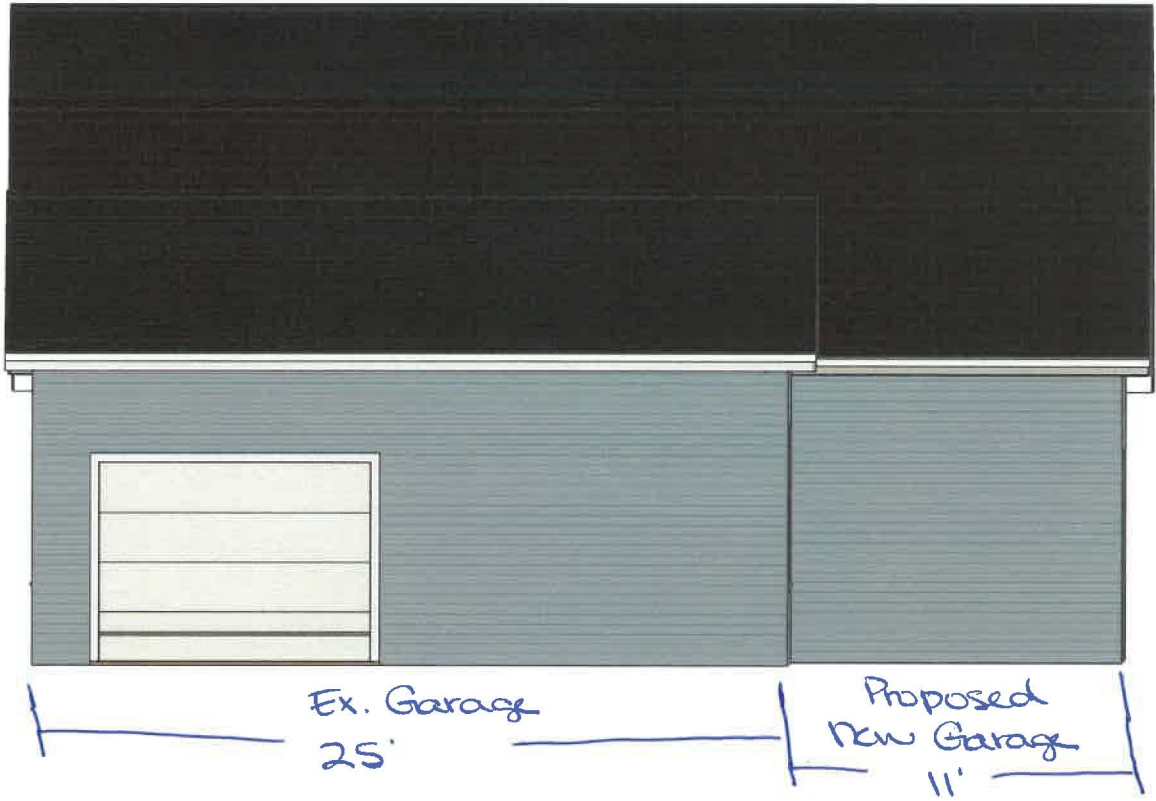
EAST  
Elevation



Proposed New Garage  
36'

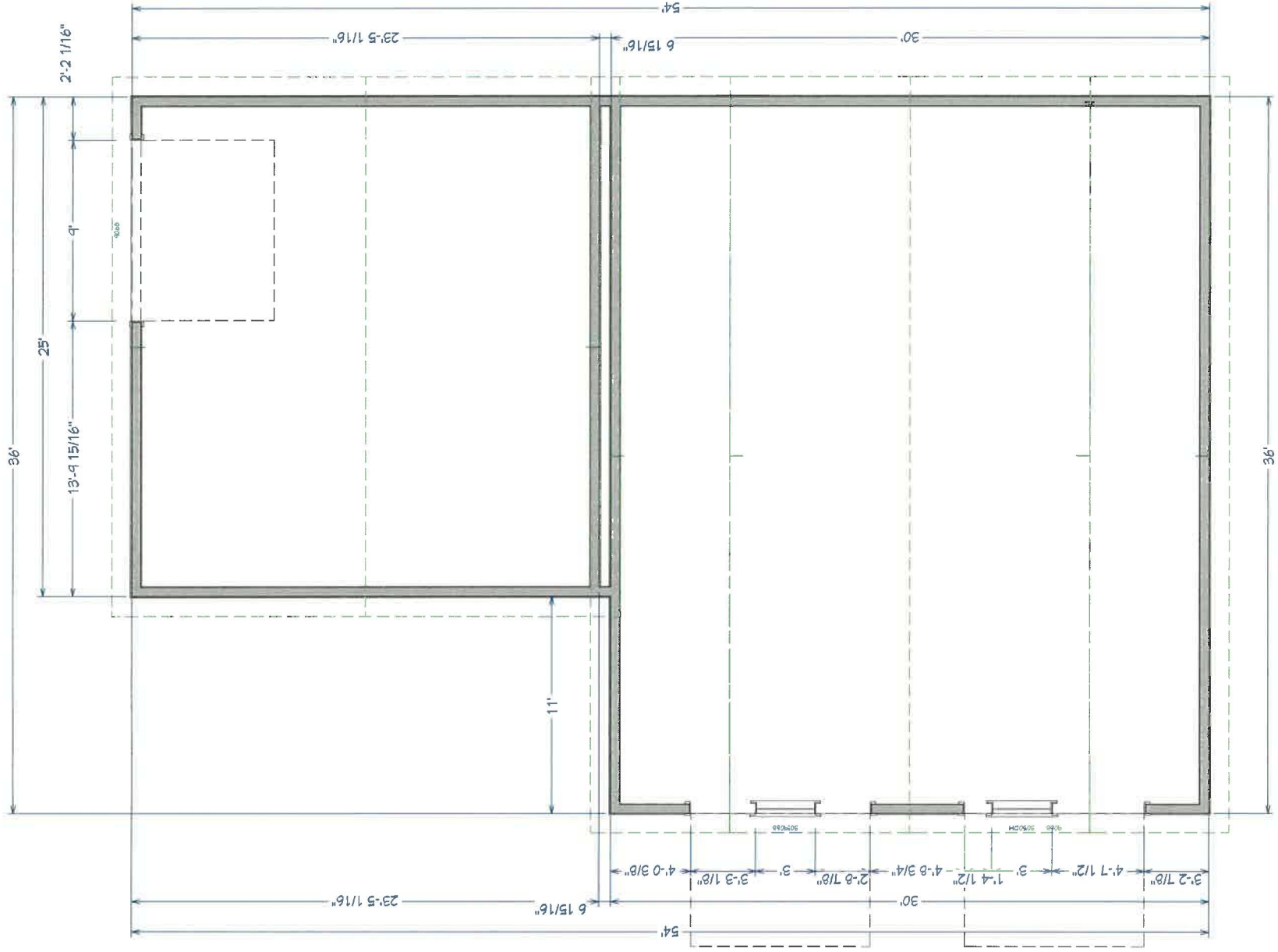
South  
Elevation





NORTH  
Elevation

2



F

LIVING AREA  
1680 SQ. FT.

Napama

## **CONTIGUOUS & SURROUNDING PROPERTY OWNERS**

Ned Boytim

2020 S. Latimore Dr.

Lakeside Marblehead, Ohio 43440-2491

Randy & Sherri Sorg

519 Parkview Dr.

Upper Sandusky, Ohio 43351-1229

John and Robert Yonkoff

3673 Titan Dr.

North Royalton, Ohio 44133-3355

Heather & Dennis Liccardi

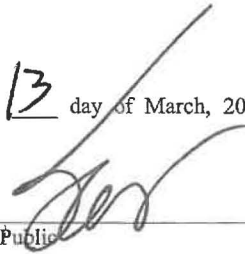
P.O. Box 165 664 Center Rd.

Hinckley, Ohio 44233-0165



STATE OF OHIO )  
 ) SS:  
COUNTY OF OTTAWA )

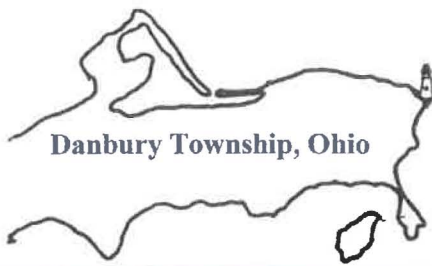
The foregoing instrument was acknowledged before me this 13 day of March, 2020 by Valerie J. Glovinsky as attorney-in-fact for Margaret R. Pahl.



This Instrument Prepared By:  
John W. Hilbert II, Esq.  
Shumaker, Loop & Kendrick, LLP  
125 Jefferson Street  
Port Clinton, Ohio 43452 (#14260491)







Kathryn A. Dale, AICP
Zoning & Planning Administrator

NOTICE OF REFUSAL

September 25, 2024

To Applicant/ Owner: Brad Hutcherson
171 Brookfield Road
Avon Lake, Ohio 44012

Application No.: 24-244
9608 E. Bayshore Rd.

BZA Case No.:

Your application dated SEPTEMBER 24, 2024, for a zoning certificate for a 30' X 36' GARAGE ADDITION located at 9608 E. BAYSHORE ROAD, MARBLEHEAD, OHIO 43440 is hereby refused on this 25th 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-3" High Density Residential.

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 5.2.1.A.i.b. Accessory Buildings

D. The cumulative square footage of all accessory buildings will be the lot coverage remaining after the square footage of the principal building (if applicable) is subtracted or the following, whichever is smaller:

Variance #1

- i. Base cumulative square footage allowance for parcels under two (2) acres:
b. 1,200 square feet in the R-1, R-2, R-3 and R-C districts.
• The applicant has an existing 20' x 24' (480s.f.) detached garage on the property they intend to keep.
• The applicant is proposing to construct a new 30' x 36' (1,080s.f.) garage addition to the south of the existing garage.
• This will result in the total cumulative square footage of all accessory buildings to be 1,560s.f. where 1,200s.f. is the maximum permitted

Article 5, Section 5.2.D.iii Accessory Buildings

Variance #2

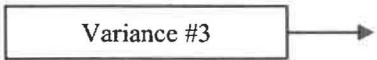
- D. For lots with a principal building, the following shall apply:
iii. Shall be no closer than five (5) feet to the principal building, no closer than five (5) feet to the side lot line and no closer than five (5) feet to the rear lot line.
• The existing 20' x 24' detached garage is nonconforming and 3.5' from the foundation to the east, rear/side property line (2.5' once the roof overhang is taken into consideration) where 5' is required.

- The applicant is proposing to align the new garage addition with the east wall of the existing garage, which will maintain the 3.5' setback to the east rear/side property line from the foundation (2.5' from the roof overhang) where 5' is required.

**Article 7, Section 7.12.3.A. 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 3.5' from the foundation to the east, rear/side property line (2.5' once the roof overhang is taken into consideration) where 5' is required.
- The original structure is 20' x 24' and consists of 480s.f.
- 20% would have allowed for 96s.f. of an addition to be added.
- The applicant is proposing to construct a 30' x 36' (1,080s.f.) addition which results in a 225% increase to the original garage 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

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### ZONING PERMIT APPLICATION

Date Filed: 9/24/24 Application #: 2024-244

~~Approval~~ <sup>Refusal</sup> Date: 9/25/24 BZA Case #: \_\_\_\_\_

1. **Property Location:** 9608 E. Bayshore - 0141235216472000 ; 0141235216474000  
 Subdivision Willow Cove A Lot # 1 : 2 Zoning District "R-3" High Den. Res.  
 Existing Use SF Home Residential Proposed Use 30'x36' Residential  
Garage Addition

2. **Applicant** Brad Hutcherson Address 9608 E. Bayshore 171 Brookfield Rd  
 City Lakeside Marblehead / Avon Lake State Ohio Zip 43440 Phone 216-276-1374  
44012  
 Email: bhutcherson@trusttusing.com

3. **Owner** SAME Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_  
 Email: \_\_\_\_\_

4. **Contractor/ Architect** SAME Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_  
 Email: \_\_\_\_\_

5. **Site Plan:** Attach site plan for subject property. See Instructions & Sample.

6. **Type of Improvement**

<u>Residential Use</u>	<u>Non-Residential Use</u>
<input type="checkbox"/> New Single Family ( ___ w/Deck)	<input type="checkbox"/> New Building(s)
<input type="checkbox"/> New Two-Family	Dimensions of each Bldg. _____
<input type="checkbox"/> New Multi-Family, No. of Units _____	_____
<input checked="" type="checkbox"/> Addition	<input type="checkbox"/> Addition
<input checked="" type="checkbox"/> Accessory Structure	<input type="checkbox"/> Accessory Structure
<input type="checkbox"/> Decks or Patios	<input type="checkbox"/> Temporary Uses - Dates From: _____ To: _____
<input type="checkbox"/> Swimming Pools (above or inground)	<input type="checkbox"/> Signs - Permanent _____ Temporary _____
<input type="checkbox"/> Walls or Fences	<input type="checkbox"/> Walls or Fences
<input type="checkbox"/> Temporary Uses - Dates From: _____ To: _____	<input type="checkbox"/> Remodel/ Tenant Finish
<input type="checkbox"/> Signs - Permanent _____ Temporary _____	<input type="checkbox"/> Docks, Finger, Main or Walkway - _____ sf.
<input type="checkbox"/> Docks - _____ sf.	<input type="checkbox"/> Other (specify) _____
<input type="checkbox"/> Other (specify) _____	_____



→ 30' x 36'

7. Project Description: Construct new garage adjacent to existing

8. Are the property line pins located or have you had a recent survey of the lot? yes (yes/no)

9. If application is for a non-residential use, list total square footage of building per floor. If application is for a residential use list total area of living space per floor as well as total area of all applicable attachments to the structure. Attach sketch of lot, showing existing buildings and proposed construction or use for which application is made. Give dimensions, indicate north and provide the following information:

	<u>Existing</u>	<u>Proposed</u>	<u>Existing</u>	<u>Proposed</u>
Basement:	_____ sf.	_____ sf.	<u>Bayshore/Nayama</u> 25 ft.	59 ft.
First floor:	1276 sf.	_____ sf.	Side Yard Setback:	
Second floor:	_____ sf.	_____ sf.	<u>E</u> side:	3.5 ft. <u>2.5' To OH</u> *variance needed
Third floor:	_____ sf.	_____ sf.	_____ side:	39 ft. 9 ft.
Garage/carport:	480 sf.	1080 sf.	Rear Yard Setback:	<u>S</u> ft. <u>5' To OH</u>
Decks/porches:	_____ sf.	_____ sf.	<i>(Setbacks are from the property lines, not the edge of the road pavement)</i>	
Breezeway:	_____ sf.	_____ sf.	<b>Lot Coverage:</b>	
Accessory:	_____ sf.	_____ sf.	A. Principal Building Footprint:	1276 sf.
Parking:	_____ sf.	_____ sf.	B. Total of Accessory buildings:	1560 sf. *variance needed
Other:	_____ sf.	_____ sf.	C. Lot Width x Lot Depth = Lot Area:	10000 sf.
Highest point of building above the established grade:	16 ft.	20 ft.	[ (A + B) ÷ C ] x 100 = 28.4 %	

480\*  
x 20%  
96\*  
allowed  
1080\*  
proposed  
(225%)  
\*variance needed

NOTE: Private deed restrictions may need to be met in some areas of the township.

Application is hereby made for a zoning certificate. It is understood and agreed by the applicant that any error, misstatement or misrepresentation of fact or expression of fact in the application, either with or without intention on the part of the applicant, such as might, or would, operate to cause the issuance of a permit in accordance with this application, shall constitute sufficient ground for the revocation of the permit at any time. The owner of this building or premises and the undersigned, do hereby agree to comply with all the laws of the State of Ohio and the Zoning Resolution of Danbury Township, and to construct the proposed building or structure or make the proposed change or alteration in accordance with the plans and specifications submitted herewith, and certify that the information and statements given on this application, drawings and specification are to the best of their knowledge, true and correct.

[Signature]

(Applicant's Signature)

7/25/2024

(Date)

Do not write below this line

ZONING CERTIFICATE

Upon the basis of Application No. 24-244 the statements in which are made a part hereof, the proposed usage (is or isn't) isn't found to be in accordance with the Danbury Twp. Zoning Resolution and is hereby (approved or rejected) rejected for the R3 Zoning District.

[Signature]

Danbury Township Zoning Inspector  
5972 E. Port Clinton Road, Marblehead, Ohio 43440

Date Application Received 9/24, 20 24 Fee Paid \$ 0 Cash/ Check # -

Date Application Ruled On 9/25, 20 24 If certificate refused, reason for refusal: \_\_\_\_\_

Permit valid for a period of one (1) year from date of issue.





