

**Pierce Township
Board of Zoning Appeals
October 18, 2023
Case Number: BZA2023-006**

Expansion of a Non-Conforming Use: 1262 SR 749 (272803I055.)

Summary: An application for an expansion of a nonconforming use per 13.04 E.), to construct a room addition on a site with two dwellings, a non-conforming use per (6.05 D). The applicant proposes constructing a room addition on a house sited on a property with two dwellings, thus an expansion of a non-conformity. As it pertains to Residential Sites: 6.05 D states - *All permitted uses shall be located on an individual and separate lot.*

The applicant's proposal is a 2nd story family room addition of approx. 446 sq. ft (20X22), proposed above the garage and attached to the main dwelling on site.

Applicant: Jason Wells, on behalf of owner(s) (Richard and Deanna Stegemeyer)

Property Location: 1262 SR 749 Pierce Township, Ohio 45157 (272803I055.)

Property Profile:

Acreage: 41.09 acres

Current Use: Single Family Dwelling

Zoning: Single Family Residential (SFR)

Prepared By: Eddie F. McCarthy, Director

Action Required: The BZA shall make a decision on the expansion of a nonconforming use in accordance with 13.04 E.

Vicinity Map and Context:

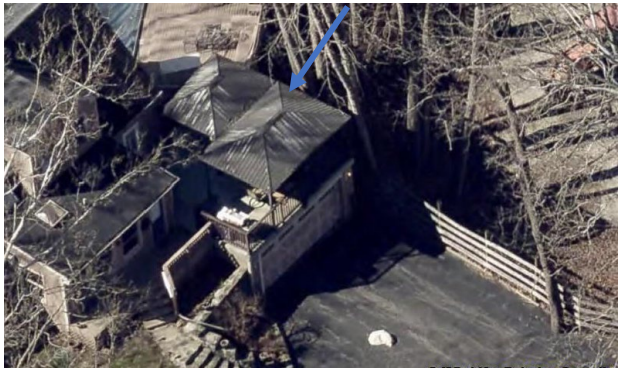


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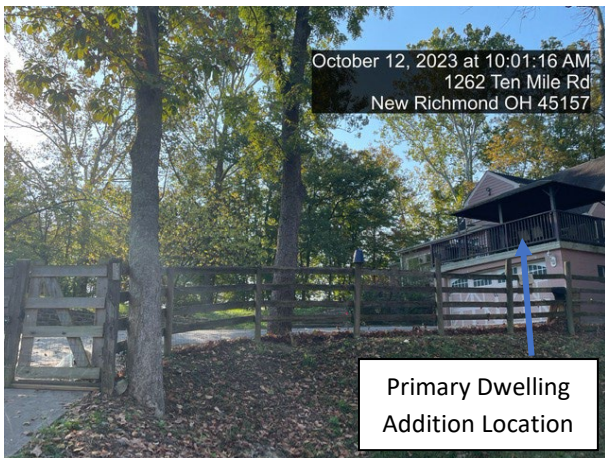
Tenant Apartment and
Farm Storage (est. 2000)



Primary Dwelling Addition
Location (est. 1946)



View from Driveway
looking East



History and Facts of the Case:

History:

1. **1946** – Primary dwelling established, per Auditor records
2. **2000** – Zoning Permit for the “Tenant Apartment and Farm Storage” issued

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Staff Analysis:

Staff has reviewed the proposal (Dated September 28, 2023) in accordance with 13.04 E, specifically:

The following shall be considered and weighed by the BZA in determining whether to approve, deny or approve with modification(s), the addition:

The usable area of a nonconforming use may be increased or improved where the owner of such use can demonstrate through application to the BZA that the manner in which the useable area of the nonconforming use will be increased or improved will have minimal adverse impact upon adjacent properties and other permitted land uses in the surrounding neighborhood or can be made compatible with the adjacent properties and the uses in the surrounding neighborhood upon compliance with specified conditions.

Facts of the Case and Board of Zoning Appeals Decision:

- The two (2) Dwellings on site were legally established and exist as legal nonconformities.
- In reviewing the Resolution assumed to be in effect at the time of the Tenant Apartment construction, “Quarters for servants employed on the premises” were a permitted use in the RA District.
- Non-conforming structures may only be expanded by way of BZA review in accordance with 13.04 E.
- The addition proposed above the existing attached garage is approx 446 sq. ft; the primary dwelling was constructed in 1946.
- While the living space of the dwelling is increasing, the overall footprint of the structure remains unchanged; the proposal is to be placed above an existing garage.
- The property owner stated that family members currently live in the tenant apartment per phone discussion 10/2023.
- In the event that the lots were subdivided (one dwelling on each site), the proposal would have been permitted by right.
- Clermont County GIS shows a single address on site

Determination(s):

E) Expansion of a Nonconforming Use

1) Notwithstanding the foregoing provisions to the contrary, the usable area of a nonconforming use may be increased or improved where the owner of such use can demonstrate through application to the BZA that the manner in which the useable area of the nonconforming use will be increased or improved will have minimal adverse impact upon adjacent properties and other permitted land uses in the surrounding neighborhood or can be made compatible with the adjacent properties and the uses in the surrounding neighborhood upon compliance with specified conditions.

2) Variances to expand a nonconforming uses into a required setback or to otherwise vary a regulation that applies to the subject site shall be prohibited.