**Case Number:** 26-BZA-006
**Request:** Variance
**Applicant:** Kevin Hopf
**Staff Report:** Completed by Jeff Palmer, Director of Planning & Zoning
**Report Date:** October 28, 2026
**Hearing Date:** November 10, 2026
**Current Zoning of Properties:** Residence Zone "R-1"

**Description of Properties:**

The property is identified as 8423 Point O'Woods Ct, Lot 118 Woodland Greens 2-2, parcel number 04-08-176-007, account 0627183 and .56 acres in size. The parcel is located in Section 8, Town 2 and Range 5 in Clearcreek Township. The property is zoned Residence Zone "R-1". The request is to reduce required rear yard setback from 40' to 27' for a proposed addition. The variance request is from Section 5.754(D) of the Clearcreek Township Zoning Resolution. (See Exhibits: Location Map, Exhibits: 1A-E, 2, 3, 4, 5)

**Nature of the Request:**

The applicant states: "The purpose of this application is to request a variance to reduce the required rear-yard setback from 40 feet to 27 feet (see Item 8a) in order to construct an addition to the existing primary residence, specifically a covered outdoor patio. Although the structure will be attached to the residence and therefore classified as an addition under the zoning requirements, the proposed improvement is open-air in nature and functions similarly to an accessory-type outdoor living feature, such as a pergola or gazebo. The request represents a reasonable and limited deviation from the setback requirement to accommodate a modest residential improvement with minimal impact.." (See Exhibits: 4, 5)

**Background on the Nature of the Request**

Staff Comments:

On July 13, 2026 the applicant submitted Case 26-BZA-002. On August 11, 2026 the Board of Zoning Appeals heard Case 26-BZA-002. The Board denied the variance request to reduce the required rear yard setback from 40' to 20' for a proposed addition. The proposed addition was 24'x28'. The variance request was from Section 5.754(D) of the Clearcreek Township Zoning Resolution. (See Exhibits: 6A-B)

On September 25, 2026, the applicant made a submittal to the Woodland Greens Homeowners Association (WGHA) Improvement Application for a variance to allow an accessory structure (24'x28') to be located with a 17' rear yard setback and a 3' gap between the principal and the accessory structure. On September 27, 2026 the WGHA denied the request because the structure exceeded 200 sq ft. (See Exhibits: 7A-AD)

The applicant references discussing alternative locations for the addition with an architect, but each was identified to be unachievable. No supporting documentation has been provided.

The applicant references approaching Sycamore Creek Country Club regarding the purchase of land to allow the proposed location to meet the required setback. The Sycamore Creek Country Club was not interested in selling land. No supporting documentation has been provided.

On October 14, 2026 the applicant submitted an updated variance request to reduce the required rear yard setback from 40' to 27' for the proposed addition. The proposed addition has been modified to 24'x24'. The variance request is from Section 5.754(D) of the Clearcreek Township Zoning Resolution. (See Exhibit: 4)

Per the submitted plot plan, the existing dwelling was constructed with a 51' rear yard setback. For the Residence Zone "R-1", the minimum rear yard setback for a principal structure is 40'. This leaves only 11' for the length of the covered patio. The applicant is proposing a structure with a 24' length and a 24' width. Per the submitted plot plan the proposed addition extends the dwelling 13' into the required rear yard setback. In 1987 Zoning Permit 997-87 was issued for the single family dwelling, the placement of the dwelling changed from the submitted plot plan. (See Exhibit: 4, 7AB-AD, 10A-B)

Zoning considers the proposed covered patio/porch to be an addition because it is connected to the existing dwelling via the roof. This connection increases the size of the dwelling footprint (square footage could be living or non-living space). If the construction increases the footprint of an existing structure then it is required to meet the applicable setbacks of the existing structure.

The following Sections of the Clearcreek Township Zoning Resolution are involved with this request.

**CHAPTER 3 DEFINITIONS**

**SEC. 3.02** **Accessory Building, Use or Structure**: A building, use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal building use or structure.

**SEC. 3.021:** **Addition:** Any construction that increases the size of the structure in terms of site coverage, height, length, width or gross floor area.

**SEC. 3.16** **Building, Permanent**: Any structure designed or intended for support, enclosure, shelter or protection of persons, animals, chattels, or property.

**SEC. 3.161** **Building, Temporary**: A building designed or intended for the support, enclosure, shelter or protection of animals, chattels or property that measures less than two hundred (200) square feet in size and does not meet the definition of structure, (see Section 3.69).

**SEC. 3.25** **Dwelling**: A building or portion thereof designed, constructed or intended for human habitation, but not including a tent, cabin, trailer or trailer coach or camper on truck.

**SEC. 3.29** **Dwelling, Single Family**: A building designed to provide a dwelling unit exclusively for use and occupancy by one (1) family.

**SEC. 3.44** **Lot**: A parcel of land having its frontage upon a public street or road.

**SEC. 3.442** **Lot, Building:** A lot or parcel of land, occupied or intended to be occupied by a principal structure that has been lawfully created and meets all criteria required by the underlying zoning classification.

**SEC. 3.47** **Lot, Depth**: The mean horizontal distance between the front and rear lot lines of a lot measured within the lot boundaries.

**SEC. 3.48** **Lot, Frontage:** The frontage of a lot is the length of the boundary of a lot that is coincident and in common with that of the road right-of-way of a public street, road or highway that it abuts.

**SEC. 3.51** **Lot, Width**: The mean horizontal distance between the side lot lines measured within the lot boundaries, or the minimum distance between the side lot lines within the buildable area.

**SEC. 3.69** **Structure**: Anything constructed or erected, the use of which requires fixed location on the ground or attached to something having a fixed location on the ground, including permanent buildings, signs, pergolas, swimming pools and telecommunication towers.

**SEC. 3.73** **Yard**: An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except eaves, balconies and unenclosed steps leading to a first floor or basement. In measuring a yard the minimum horizontal distance between the lot line and the nearest portion of the building shall be calculated, starting at the lot line and ending at the nearest portion of the building foundation.

**SEC. 3.74** **Yard, Front**: The open space extending across the front of a lot between the lot frontage and the closest vertical support for the building, other than the projection of the usual eaves and overhangs not to exceed three (3) feet, steps, wheelchair ramp. For a lot that has frontage on more than one street, the required front yard shall be provided on all streets.

**SEC. 3.75** **Yard, Rear:** The open space extending across the rear of a lot between the side lot lines and the being the minimum horizontal distance between the rear lot line and the building other than the projection of the usual eaves and overhangs not to exceed three (3) feet, steps, unenclosed balconies or unenclosed porches. The lot line is most distant from, and is, or is most nearly parallel to, the lot frontage. If a rear lot line is less than fifteen (15) feet long, or if the lot line comes to a point at the rear, the rear lot line shall be a line at least fifteen (15) feet long lying wholly within the lot, parallel to the lot frontage. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots the rear yard shall in all cases be the opposite end of the lot from the front yard. On lots fronting on three (3) streets, the remaining dimension shall be termed the rear yard, but shall be at least the minimum established for any side yard in the respective zone.

**SEC. 3.76** **Yard, Side:** The open space between the building and the side line of the lot and extending from the front yard to the rear yard. Unenclosed steps, wheelchair ramps and balconies may extend into the side yard no more than one-half (1/2) of the required side yard width. Side yard lot lines connect lot frontage to rear yard lot lines.

## CHAPTER 5.75 RESIDENCE ZONE "R-1" REGULATIONS

**SEC. 5.752** **PERMITTED USES:** A building or lot shall be used only for the following purposes:
A. Single family dwellings

K. Accessory buildings defined as either temporary or permanent and uses customarily incidental to any permitted uses, provided the primary use or structure has been established or constructed on the same lot.

**SEC. 5.754 PRINCIPAL STRUCTURE, REQUIRED YARDS FOR LOTS EXCEPT PANHANDLE LOTS:**

**A.** There shall be front yard having a depth of not less than fifty (50) feet, provided, however, no front yard depth shall be required to exceed the average of the minimum depths of the existing front yards on the lots adjacent on each side, if each of such lots are within the same block and within one hundred (100) feet of the building under consideration. If an average can not be mathematically determined based upon the above process, then the zoning inspector shall expand the area under review. The expanded area shall include the front yard setbacks of the building(s) across the street and within one hundred (100) feet of the building under consideration.

**B.** For a lot that has frontage on more than one street, the required front yard shall be provided on all streets.

**C.** Side yard: There shall be a side yard of ten (10) feet minimum on each side, except for lots with more than one (1) front yard, in which case the minimum side yard shall be ten (10) feet on the side, if any, not fronting on a street.

**D.** Rear yard: There shall be a rear yard having a depth of not less than forty (40) feet, except for lots with three (3) front yards, in which case the minimum rear yard shall be ten (10) feet.

***The standard for approval of a variance is "Unnecessary Hardship". In determining whether or not unnecessary hardship exists, the Board of Zoning Appeals will consider the following factors. Please indicate below how this variance meets each standard.***

**Review of Application:**
Evaluation of the Variance:

*1. The hardship must remove all profitable use from the land. It is not a sufficient hardship if the land would be more valuable with the variance, or less valuable without the variance. Instead, there must be evidence that the property is unsuitable to any of the permitted uses as zoned:*

The applicant states: "Our family purchased the property located at 8423 Point O Woods in October 2025 and have since invested significant time and resources into restoring and improving the home. As those renovations neared completion, we turned our attention to creating a functional outdoor living space that would allow us, our large extended family, and guests to enjoy the property throughout much of the year. To address the property's lack of covered outdoor living space, we designed an open-air covered patio that would provide shade, protection from the elements, and a dedicated gathering area while remaining architecturally consistent with the existing residence. Attached as Exhibit A is a draft Elevation drawing depicting the proposed structure. During the planning process, it was determined that the proposed patio would encroach into the required rear-yard setback. In July 2026, we submitted Variance Request BZA-26-002 seeking a reduction of 17 feet to the rear setback. The request was denied because the Board concluded that a detached covered structure could be constructed in compliance with the Township's accessory structure setback requirements. Following that decision, we pursued the alternative identified by the

Board. However, the Woodland Greens Homeowners Association ("WGHA") governing documents prohibit detached structures other than sheds not exceeding 200 square feet. We requested a variance from the WGHA to construct the proposed patio as a detached structure, but that request was denied on September 27, 2026. Attached as Exhibit B is a copy of the WGHA Improvement Application/Variance Request and supporting documents and WGHA denial documentation. As a result, the detached structure alternative that formed a basis for the prior denial is not available. We also evaluated constructing the patio over the existing concrete patio. Following consultation with a professional architect, it was determined that roof pitch, structural integration, and egress requirements make that alternative impractical. Supporting written documentation is pending and will be provided by the architect shortly. The practical difficulty arises from the placement of the residence on the lot when built and the resulting limitations created by the rear-yard setback requirements. These conditions were not created by us and significantly restrict the ability to construct an attached covered patio. The proposed structure is an open-air, non-habitable residential amenity that will remain consistent with the character of the home and surrounding neighborhood. It is intended solely to provide a functional outdoor gathering space and will have minimal impact on neighboring properties. Given the unique circumstances of the property, the lack of feasible alternatives, the elimination of the detached structure option identified during the prior variance proceeding, and the minimal impact on the surrounding community, our family respectfully request approval of the variance." (See Exhibits: 4, 6A-B, 7A-AD)

The following issues need to be considered:

- See background above.
- The square footage calculations for the existing single-family dwelling:
    - It is calculated to have a 4,681 sq. ft. living area (all habitable areas, all floors). (See Exhibits: 1A-B)
    - It is calculated to have a total footprint size of 3,280 sq. ft. (includes all living area on the first floor, the non-living areas on the first floor and all additions/projections (garage, porch, balcony deck). (See Exhibits: 1A-B)
    - The proposed structure is 24' in width by 24' in length. This calculates to 576 sq. ft. The covered patio/porch would increase the footprint of the single-family dwelling to 3,856 sq. ft. (See Exhibits: 1A-B, 4)
- The setbacks for the existing single-family dwelling:
    - Per the Warren County Auditor's Website Aerial (See Exhibit: 8):
        - Front: 102'
        - North Side: 12'
        - South Side: 26'
        - Per staff's site visit during Case 26-BZA-002: Rear: 51' to what appears to be white property marker posts. The southern dimension of 215' was affirmed from the edge of road right-of-way to the southern white post. (See Exhibits: 8, 9I)
- See proposed structure at the proposed location for the variance request. (See Exhibit: 4)
- The Woodland Greens Subdivision has a restrictive covenant that prohibits accessory structures over 200 sq ft. This is more restrictive than the Zoning Resolution. When private covenants and the Zoning Resolution have different regulations, the more stringent standard prevails. The homeowner is responsible for researching compliance with all regulations. The Zoning Department doesn't enforce covenants. Zoning could issue a permit for an accessory

structure because it meets the Zoning Resolution. The owner would still be subject to any privately enforceable regulations (covenants, deed restrictions). (See Exhibit: 7A)

- See staff photos (See Exhibits: 9A-I)

*2. The hardship must result from circumstances affecting a particular and unique piece of land, and not from a general condition throughout the neighborhood:*

The applicant states: "Based on information obtained from Township records, the builder, and the final approved site plans, this property possesses unique characteristics that distinguish it from the majority of lots within the neighborhood. The original site plans contemplated locating the residence approximately 50 or 60 feet from the front property line, which would have resulted in a rear-yard depth of approximately 96 or 106 feet. Supporting documentation, including the original builder site plans and Township-approved zoning documents, is attached as Exhibits E. These documents demonstrate the original intended location of the residence and illustrate how site-specific topographical and environmental conditions ultimately resulted in the home being placed farther back on the lot than originally planned. Due to the grade and slope of the lot, as well as efforts to preserve existing mature trees near the front of the property, the residence was ultimately constructed farther back on the lot than originally planned. As a result, the available rear-yard depth was significantly reduced. The placement of the residence, which was driven by site-specific topographical and environmental conditions, created limitations on future improvements that would not have existed under the original site plan. These conditions are unique to this property and are not representative of a general condition affecting the neighborhood as a whole. Further supporting the uniqueness of this property, Exhibit C illustrates the buildable area available on neighboring properties that were notified as part of Variance Request BZA-26-002. As shown, many surrounding homes have substantially greater rear-yard depth and buildable areas available for future improvements. The reduced rear-yard depth affecting our property is not a general condition throughout the neighborhood but rather the result of site-specific factors unique to this parcel. Consequently, the combination of the property's topography, the location of the existing residence, the reduced rear-yard depth, and the applicable setback requirements create a practical difficulty that is specific to this parcel and not shared by the majority of surrounding properties." (See Exhibits: 8, 7AB-AD, 10A-B, 11, 12)

The following issues need to be considered:

- See # 1 and background above.
- The topographical challenges of the site have led to the current placement of the structure. The original owner didn't request a variance because of the topography, that individual located the home on the parcel as it currently exists. The location met all required zoning setbacks but reduced the future potential rear expansion of the dwelling. The manner in which the original owner dealt with the topography directly contributed to the character of the property. (See Exhibits: 3, 4, 8, 11)
- The Warren County Aerial that depicts the 500' notice area is labeled Exhibit 8.
    - A total of seventeen (17) parcels are in the notice area.
    - All parcels are zoned Residence Zone "R-1".
    - One (1) parcel is outside of the Woodland Greens Subdivision, it is the Sycamore Creek Country Club. (See Exhibits: 13A-E)
    - Sixteen (16) of the parcels are in the Woodland Greens Subdivison. (See Exhibits: 14A-29B)

        - Lot size, calculated from the Warren County Auditor's Aerial:
            - Average size is .78 acres. (See Exhibits: 14A-29A)
            - The smallest size is .54 acres. (See Exhibit: 19A)
            - The largest size is 2.01 acres. (See Exhibit: 27A)
        - Front yard dwelling setback:
            - Average setback is 76.75'. (See Exhibit: 8)
            - The smallest setback is 50'. (See Exhibits: 8, 18A, 19A, 20A)
            - The largest setback is 164'. (See Exhibits: 8, 24A)
        - Rear yard setback, measured from the Warren County Auditor's Aerial from dwelling:
            - Average setback is 95.6'. (See Exhibit: 8)
            - The smallest setback is 23' to the house. Per the submitted plot plan the setback should be 40' to this boundary. (See Exhibits: 8, 23A)
            - The largest setback is 146'. (See Exhibits: 8, 29A)
        - House living area, calculated from the Warren County Auditor's Summary:
            - Average size is 4,167.25 sq. ft. (See Exhibits: 14A-29B)
            - The smallest size is 3,105 sq. ft. (See Exhibits: 28A-B)
            - The largest size is 5,412 sq. ft. (See Exhibits: 19A-B)
- The only Variance Request that has been applied for in the notice area was Case 26-BZA-002. (See Exhibits: 6A-B)
- The topography for the proposed location is 894'. This same contour exists for the areas west of the proposed location to the property line and north of the proposed location to the property line. South of the proposed location, the contour changes to 892'. (See Exhibit: 11)
- Including the subject parcel, there are a total of eight (8) lots in the 500' notice area that are located along the western boundary of Point O'Woods Court, through the center of the cul-de-sac.
    - Four (4) of the parcels have a rear yard setback greater than eighty (80) feet or at least double the rear yard setback requirement. (See Exhibits: 8, 16A, 17A, 24A, 26A)
    - Two (2) of the parcels have a rear yard setback greater than one hundred (100) feet or at least two and a half (2.5) the rear yard setback requirement. (See Exhibits: 8, 15A, 25A)
    - One (1) of the parcels has a rear yard setback less than eighty feet (80). This parcel is adjacent parcel to the north, with a rear yard setback of sixty-eight (68) feet. (See Exhibits: 8, 14A)

*3. A variance must not alter the essential character of the neighborhood:*

The applicant states: "The requested variance will not alter the essential character of the neighborhood. The proposed covered patio is an attached residential improvement that is consistent with the scale, appearance, and architectural character of the Woodland Greens community. The proposed structure will be integrated into the aesthetics of current residence and constructed using materials and features that complement the home and surrounding properties. It will remain

subordinate to the principal residence and will be visually consistent with other outdoor living amenities commonly found in residential neighborhoods. The requested variance relates solely to the rear-yard setback requirement and does not involve a change in land use, density, building height, or the overall character of the surrounding area. The property will continue to be used as a single-family residence, and the proposed improvement will not create any adverse impacts on neighboring properties. Approval of the requested variance will allow a customary residential improvement while preserving the existing character of the neighborhood." (See Exhibits: 4, 5)

The following issues need to be considered:

- See # 2 above.
- See submitted drawings. (See Exhibit: 5)
- See staff photos. (See Exhibits: 9A-I)

*4. It is not enough to show that the effects of a variance would be harmless. Real, unnecessary hardship must still be established by the applicant:*

The applicant states: "The hardship arises from the unique circumstances affecting this specific property. Due to the property's topography, the placement of the residence on the lot, the resulting reduction in rear-yard depth, and the applicable setback requirements, we are unable to construct the proposed attached covered patio without variance relief. Furthermore, the detached structure alternative identified during the review of Variance Request BZA-26-002 has since been determined to be unavailable due to WGHA restrictions. We also investigated alternative design options and determined they present significant practical limitations. As a result, a hardship results from the unique physical characteristics of the property and the lack of a feasible alternative(s) for constructing a customary residential outdoor living space, desired by our family. Based on the circumstances described above and in the responses to Items 1, 2, and 3, we believe a real and unnecessary hardship does exist." (See Exhibits: 3, 4, 7A, 11)

The following issues need to be considered:

- The setbacks for principal structures are the most restrictive in all zoning classifications.
    - The 40' rear yard setback has been the standard for the Residence Zone "R-1" since 1973. (See Exhibits: 30A-D, SEC 5.754(D) above)
    - The principal structure is the most intensively used structure on a parcel. The setbacks push this structure the furthest away from the property line and/or road right-of-way.
    - The rationale for setbacks is rooted in the zoning police power to: separate incompatible uses, separate structures to control the spread of diseases and separate structures to decrease the spread of fire.
- This proposed structure due to the connection to the existing principal structure is classified and regulated as an addition. Any expansion (living space or non-living space) of the principal structure is required to meet the same setbacks (50' front yard, 10' per side and 40' rear yard setback).
- The variance deals with the reduction of the rear yard setback. The applicant will meet and/or exceed the remaining setbacks. (See Exhibit: 4)

    - The applicant is requesting 27' instead of the required 40'.
        - The request is a 13' encroachment.
        - The request encroaches 32.5% into the requirement (13/40).
        - The request meets 67.5% of the requirement, (27/40).
- See # 3 above.

*5. Any hardship must result from the requirements of the zoning resolution and not from the applicant's own actions:*

The applicant states: "The hardship does not result from any action taken by us. Rather, it results from the existing topographical characteristics of the property, the placement of the residence on the lot, and the applicable Clearcreek Township zoning requirements. These items existed prior to our purchase of the property and were not created by us. Specifically, the location of the residence was influenced by the lot's grade, slope, and the preservation of mature trees, all of which reduced the available rear-yard depth and limited future improvement options. The resulting difficulty arises from the pre-existing site conditions and the application of the current setback requirements, not from any action or decision by us." (See Exhibits: 3, 4, 11)

The following issues need to be considered:

- See #1, 2, 3 & 4 above.
- The placement of the existing single-family dwelling exceeds the required setbacks for the zoning classification. It is unclear why the builder selected the existing location. (See Exhibits: 3, 4, 10A-B)
- The dwelling was not constructed to the minimum rear yard setback of 40'. Based upon the submitted plot plan an 11' addition could be constructed and still meet the required rear yard setback. (See Exhibits: 3, 4)
- Based upon the existing location of the dwelling, the required zoning setbacks and the applicant's desire for a 24'x24' addition, the request is for a thirteen (13) foot encroachment into the required rear yard setback. The applicant has updated the request since Case 26-BZA-002 was heard, the length (encroachment) by has been reduced by four (4) feet. (See Exhibits: 4, 6A-B)
- See background above.

*6. Whether the property owner purchased or acquired the property with the knowledge of the zoning restriction:*

The applicant states: "No. The property was acquired as a conforming residential home and property with the expectation of maintaining and reasonably improving the property over time. While we understood the property was subject to applicable zoning regulations, we were not aware of the unique site conditions and resulting limitations on future improvements created by the placement of the residence on the property and the reduced rear-yard depth. The unique circumstances of the property and residence resulting from the original design and construction in 1987-1988 were not known to us and could not reasonably have been anticipated at the time of purchase."

The following issues need to be considered:

- Per the Warren County Auditor's Website, the owner purchased the property on October 28, 2025. (See Exhibit: 1C)
- The house was built in 1988. (See Exhibits: 1A-B)
- The unique character of the lot and dwelling were established at this location prior to the date the applicant purchased the property.
- The required forty (40) foot rear yard setback has not changed since 1973. (See Exhibits: 30A-D)
- See #1, 3 & 5 above.
- See background above.

*7. A variance must not be contrary to the public interest, even if a hardship can be established:*

The applicant states: "The requested variance, if granted, will not be contrary to the public interest. The proposed covered patio is a customary residential improvement that will not adversely affect public health, safety, or welfare. The structure will not create additional traffic, impact public utilities, alter drainage patterns, or otherwise burden public services. The proposed improvement will remain compatible with the surrounding neighborhood and will not create adverse impacts related to light, air, privacy, noise, or the reasonable enjoyment of neighboring properties. The variance request relates solely to the rear-yard setback requirement and does not involve a change in land use, density, or the residential character of the area. Based on discussions with representatives of the WGHA Board and Architectural Committee, the concept of an attached covered patio is permitted within the community provided the applicable architectural standards are satisfied. This further demonstrates that the proposed improvement is consistent with the character and expectations of the neighborhood. In addition, letters of support from the adjacent rear property owner, Sycamore Creek Country Club, and neighboring property owners Shawn Tovey and Marie Perkins are attached as Exhibits E and F, respectively. Their support further demonstrates that the proposed improvement will not adversely impact neighboring properties or the surrounding community. We believe approval of the requested variance would serve the reasonable use and enjoyment of the property without creating any adverse impact on the public interest." (See Exhibits: 7A-AD, 31, 32)

The following issues need to be considered:

- See staff photos. (See Exhibits: 9A-I)
- See #1, 2, 3, 4, 5 & 6 above.
- Compliance with the Zoning Resolution would allow the applicant to create an 11'x24' addition to the rear of the dwelling. It is unclear why this square footage that complies with the Zoning Resolution does not allow for the reasonable use and enjoyment of the applicant's property.
- The adjoining parcel to the west would be impacted the most by the proposed location.
    - This is the Sycamore Creek Country Club. This property has provided a letter of support for the variance request. (See Exhibit: 31)
    - Along the western adjacent parcel there are existing trees that help to define the edge of the golf course from this parcel. (See Exhibit: 9C)

    - Along the southern adjacent parcel, the property line is lined with trees and shrubs. (See Exhibit: 9G, 9I)
- Consider whether the spirit and intent as identified in the Clearcreek Township Zoning Resolution Chapter 1 are upheld during this request for a variance:
    - **SEC. 1.01** To provide for the citizens of Clearcreek Township adequate light, pure air and safety from fire and other dangers, to conserve the value of land and buildings, to lessen or avoid congestion of traffic in the public streets and to promote the public health, safety, morals, comforts, conveniences and general welfare, all in accordance with the provision of Section 519 of the Ohio Revised Code.
    - **SEC. 1.02** To protect the character and the stability of the residential, business and industrial areas within Clearcreek Township and to promote the orderly and beneficial development of such areas.
    - **SEC. 1.03** To establish restrictions in order to attain these objectives by adopting a zoning code which will revise the districts into which the township is divided, the restrictions upon the uses to which land and buildings may be devoted, the restrictions upon the location and height of buildings, the restrictions upon the intensity of the use of land and buildings, the requirements for yards, the requirements for off-street parking facilities, the provisions for administration and enforcement of the Code, the penalties for violation of the Code, and the procedures, powers and duties of the Board of Appeals.

*8. Other factors that the applicant considers important to the judgment of the case:*

The applicant states:

"8a) We respect and fully support the concept and need for property setback requirements in the zoning code. This was the main reason behind our thinking when we decided to reduce the dimensions and square footage of the proposed structure. Our goal was to find a way to minimize the impact of the variance. In this situation it lessens the impact on the setback to 13 feet while preserving a setback of 27 feet. Further, when considering the impact, our variance request would only impact only 24 feet of the 127-foot rear property line. It is our hope, the effort reducing the overall dimensions of the proposed structure, the reduced impact on the rear setback line, and all the unique characteristics/history of the property outlined herein will provide valid reasons and a defensible position for the BZA Members to grant this variance request.

8b) The requested variance represents a reasonable and limited adjustment to allow a modest residential improvement that is consistent with the character of the neighborhood and has minimal impact on surrounding properties. • The proposed patio is open-air and non-habitable. • The structure is limited in size and scope. • The requested setback reduction affects only the location of the structure and does not alter the residential use of the property. • The proposed attached structure creates less visual impact than a detached accessory structure. • The proposed use is supported by the adjacent property owners, most directly affected by the request.

8c) Since the denial of Variance Request BZA-26-002, we have evaluated all alternatives identified during the review process. Through the WGHA Architectural Standards variance review

process, we have confirmed that the WGHA will not permit the proposed improvement as a detached accessory structure under its governing documents.

8d) We have also explored the possibility of acquiring a small parcel of land adjoining the rear property line (approximately 20 feet by 127 feet) from Sycamore Creek Country Club (SCCC) to increase the overall depth of the property and achieve compliance with the setback requirements for additions. Following discussions with SCCC Leadership and Board members, we were advised that such a transaction was not likely because SCCC did not wish to establish a precedent for future land sales.

8e) During the review of Variance Request BZA-26-002, discussion occurred regarding the use of a recorded deed restriction to ensure that the proposed covered outdoor living area remains consistent with the plans submitted to the BZA. We are willing to voluntarily record a deed restriction, prepared by legal counsel and approved by the appropriate authorities, permanently limiting the structure to an open-air, non-habitable use and prohibiting its enclosure or conversion into conditioned living space. We believe this commitment provides an additional layer of protection for neighboring properties and the community by ensuring that the variance cannot be used to facilitate future expansion beyond the scope of the request currently before the Board.

8f) We have made substantial efforts to identify reasonable alternatives in lieu of the requested variance. However, the detached structure alternative is not permitted by the WGHA; the placement alternatives discussed during the prior BZA hearing were determined to be impractical due to architectural and code-related constraints; and the acquisition of additional land from SCCC is not a realistic option. As a result, the requested variance represents the most practical and least impactful solution. Granting variance would not adversely affect neighboring properties, alter the character of the neighborhood, nor conflict with the intent of the zoning regulations. Rather, it would allow a customary residential improvement while respecting the interests of adjoining property owners, preserving the character of the surrounding area, and addressing the unique circumstances that exist on this property." (See Exhibits: 4, 5, 6A-B, 7A-AD)

The following issues need to be considered:

- See #1-7 above.
- The applicant has decreased the size of the addition, but has not provided rationale as to why the current size and corresponding encroachment meets the unnecessary hardship standards. (See Exhibit: 4)
- Documentation hasn't been provided from the Sycamore Creek Country Club regarding the decision not to sell land to the applicant.
- The BZA is unable to require a deed restriction as a condition of the variance. A deed restriction is a privately enforceable document. Conditions for the variance must be referenced from the Zoning Resolution.
- Documentation hasn't been provided from the architect regarding why alternative locations of placement along the rear of the dwelling aren't considerable options.
- **SEC 21.01 (B) (4) Conditions For Variances:**
  The Board of Zoning Appeals may impose such specific conditions and limitations concerning character, location, buffer & screening and other matters relating to the purposes, objectives and standards of this resolution. Conditions and limitations shall be

imposed upon the premises benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. Such conditions and limitations shall be expressly set forth in the decision granting the variance. Violation of any such conditions or limitation shall be a violation of this resolution.

**CASE 26-BZA-006 VARIANCE HEARING**

***Staff recommends DENIAL of Case 26-BZA-006. Staff's rationale is outlined below:***

**The standard for approval of a variance is "Unnecessary Hardship".**

1. **The hardship must remove all profitable use from the land. It is not a sufficient hardship if the land would be more valuable with the variance, or less valuable without the variance. Instead, there must be evidence that the property is unsuitable to any of the permitted uses as zoned:**
   *A single-family dwelling currently exists on the parcel.*

2. **The hardship must result from circumstances affecting a particular and unique piece of land, and not from a general condition throughout the neighborhood:**
   *In the 500' notice area, there are sixteen (16) parcels located in the Woodland Greens Subdivision. The subject parcel is less than the average lot size. The subject parcel has a front yard setback greater in distance than the average front yard setback. The rear yard setback is less than the average rear yard setback. The living area and the footprint for the dwelling are greater than the average size for the notice area. The topographical challenges of the site have led to the current placement of the structure. The original owner didn't request a variance because of the topography, that individual located the home on the parcel as it currently exists. The location met all required zoning setbacks but reduced the future potential rear expansion of the dwelling. The manner in which the original owner dealt with the topography directly contributed to the character of the property. One other parcel along the western boundary of Point O' Woods has a rear yard setback less than eighty feet (80). This parcel is adjacent parcel to the north, with a rear yard setback of sixty-eight (68) feet.*

3. **A variance must not alter the essential character of the neighborhood:**
   *The encroachment in the rear yard would impact the Sycamore Creek Country Club the most. The view of the addition as one travels along Point O'Woods Court would be minimal.*

4. **It is not enough to show that the effects of a variance would be harmless. Real, unnecessary hardship must still be established by the applicant:**
   *The setbacks for principal structures are the most restrictive in all zoning classifications. The 40' rear yard setback has been the standard for the Residence Zone "R-1" since 1973. The request is for a 32.5% encroachment into the required rear yard setback.*

5. **Any hardship must result from the requirements of the zoning resolution and not from the applicant's own actions:**
   *The placement of the existing single-family dwelling exceeded the required setbacks for the zoning classification. It is unclear why the builder selected the existing location. The*

*dwelling was not constructed to the minimum rear yard setback of 40'. Based upon the submitted plot plan an 11' addition could be constructed and still meet the required rear yard setback.*

6. **Whether the property owner purchased or acquired the property with the knowledge of the zoning restriction:**
   *Per the Warren County Auditor's Website, the owner purchased the property on October 28, 2025. The unique character of the lot and dwelling were established at this location prior to the date the applicant purchased the property.*

7. **A variance must not be contrary to the public interest, even if a hardship can be established:**
   *See Number 4 above.*

8. **Other factors that the applicant considers important to the judgment of the case:**
   *The applicant has decreased the size of the addition since the last variance request, but has not provided rationale as to why the current size and corresponding encroachment meets the unnecessary hardship standards. Documentation hasn't been provided from the Sycamore Creek Country Club regarding the decision not to sell land to the applicant. Documentation hasn't been provided from the architect regarding why alternative locations of placement along the rear of the dwelling aren't considerable options.*