

Case Number: 24-BZA-002

Request: Variance

Applicant: Amy Brown POA for Dorthy Logan

Staff Report: Completed by Jeff Palmer, Director of Planning & Zoning

Report Date: March 22, 2024

Hearing Date: April 9, 2024

Current Zoning of Property: Township Residence Zone “TR-1”

Description of Property:

The parcels are identified by Warren County Parcel Numbers: 05-31-300-033, account number 0101664 (14.7172 acres), 05-31-300-034, account number 0110833 (23.2532 acres), 05-31-300-011, account 0121088 (5.9470 acres), 05-31-300-014, account 0121827 (2.9890 acres). The parcels are located in Section 31, Town 3 and Range 5 in Clearcreek Township. The parcels are zoned Township Residence Zone “TR-1”. (See Exhibits: Location Map, 1A-H, 2A-J, 3A-I, 4A-G)

Nature of the Request:

The applicant states: “Applicant cannot meet requirements set forth in current TR-1 Zoning for the allowable length of Panhandle for residential use. We are requesting a variance to allow a panhandle to be established @ 1520 +/- feet to allow for a potential residential site; Lot "B" (See Exhibit “8”). To stay compliant with current zoning, Lot "B" would split the existing pond and cabin; which is not the intent of the current owner Dorothy C. Logan. Upon death, the property would be evenly divided between existing children and grandchildren, per her wishes, for a total of three (3) buildable lots. The original tract had 3 residences and the intent is to never have more than 3 residences. The frontage on this tract would not support more than 3. In Addition, by granting this variance a corridor for existing utilities could be established along the panhandle to properly extend much needed county water and updated telecommunication to the existing residences. Currently the existing utilities run throughout the original tract and maintenance has become an issue.” (See Exhibits: 5A-G, 6A-E, 7A-F, 8, 9, 10)

Background on the Nature of the Request

Staff Comments: The applicant desires to combine these parcels together and then subdivide the total into three (3) lots. Lot A will meet the expectations of the Clearcreek Township Zoning Resolution to be used as a residential lot. Lot B is designed as a panhandle lot. The handle has a depth of approximately 1,520’. The applicant is seeking a variance from Section 6.07 (C) of the Clearcreek Township Zoning Resolution to allow the handle to exceed the 600’ maximum so the lot can be used residentially. Lot C is an agricultural lot.

The affidavit to correct acreage shows the retirement of old parcel numbers and the issuance of new numbers. This is a good reference for understanding how the acreage and parcel numbers have evolved. Most notably parcel 05-31-300-019 has become 05-31-300-033 and parcel 05-31-300-010 has become 05-31-300-034. (See Exhibits: 5A-G, 6A-E, 7A-F)

**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. 3.027** **Agriculture**: The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and accessory uses such as packing, treating, storing or selling produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.
- 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. 3.44** **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. 3.561** **Panhandle Lot**: A lot whose only frontage on a public street is through a narrow strip of land which is wide enough to accommodate a driveway, but too narrow to accommodate any structures. The narrow strip of land is referred to as the panhandle and the balance of the lot is referred to as the body.
- 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 GENERAL PROVISIONS

SEC. 5.02 No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used which does not comply with all of the regulations established by this Code for the zone in which the building or land is located.

SEC. 5.06 Every building hereafter erected or structurally altered shall be located on a lot as herein defined, and in no case shall there be more than one main residential building on a lot, except as specifically provided hereinafter. A plat of survey or plot plan, showing stakes on lot corners and at building setback shall accompany a request for permission to erect or add to any structure.

SEC. 5.10 In every zone, any structure erected or structure altered, or any permitted use, shall be located on a lot or tract having the frontage required by this Code on a dedicated, improved street or road.

CHAPTER 5.5 OPEN SPACE RURAL RESIDENCE ZONE "OSR-1" REGULATIONS

SEC. 5.54 PRINCIPAL STRUCTURE, REQUIRED YARDS FOR LOTS EXCEPT PANHANDLE LOTS:

- A.** There shall be a front yard having a depth of not less than one hundred (100) feet except for Open Space Dedication Option Development (OSDOD) lots which shall have a minimum front yard of fifty (50) feet.
- 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 twenty-five (25) feet minimum on each side, except for Open Space Dedication Option Development (OSDOD) lots which shall have a minimum side yard of ten (10) feet on each side.

- 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 twenty-five (25) feet.

SEC. 5.55 INTENSITY OF USE: Every lot or tract, except Open Space Dedication Option Development (OSDOD) and a panhandle lot, shall have a minimum continuous frontage and width of not less than one hundred forty (140) feet at any point, except on a cul-de-sac, in which case it shall have a minimum continuous frontage and width at any point of at least seventy (70) feet, and a minimum width of one hundred forty (140) feet at the minimum building setback line and:

SEC. 5.57 FOR LOTS OTHER THAN OSDOD, PANHANDLE LOTS ARE PERMITTED SUBJECT TO THE FOLLOWING REGULATIONS:

- A. Panhandle lots shall not be "stacked" one behind the other relative to a street or road.
- B. The panhandle portion of the lots shall have a minimum frontage and continuous width of twenty (20) feet and a maximum frontage and width of forty (40) feet.
- C. The panhandle portion of the lots shall have a maximum length of twelve hundred (1200) feet.
- D. The body of the lot shall have a minimum area that meets or exceeds the minimum lot size established in Section 5.55 (A) and is exclusive of the panhandle portion of the lot.
- E. The body of the lot shall have a minimum width of two hundred ten (210) feet and a minimum depth of two hundred (200) feet.
- F. All structures shall be built within the body of the panhandle lot.
- G. The principal structure shall have a minimum front yard of one hundred (100) feet, rear yard of fifty (50) feet and a side yard of twenty (20) feet minimum each side.
- H. Any accessory structure shall have a minimum front yard of one hundred (100) feet, rear yard of twenty (20) feet and a side yard of twenty (20) feet minimum each side.

**CHAPTER 6
TOWNSHIP RESIDENCE ZONE "TR-1" REGULATIONS**

SEC. 6.05 INTENSITY OF USE: Every lot or tract, except a panhandle lot, shall have a minimum continuous frontage and width of not less than one hundred twenty (120) feet at any point, except on a cul-de-sac, in which case it shall have a minimum continuous frontage and width at any point of at least sixty (60) feet, and a minimum width of one hundred twenty (120) feet at the minimum building setback line and:

- A. Lots or parcels proposed as building sites that are not connected to a central sanitary sewage system and are otherwise approved by the Warren County Combined Health District and/or the Ohio environmental protection agency for individual onsite wastewater disposal system shall contain not less than one and one half (1 ½) acres exclusive of: any road or street right-of-way as shown on the Warren County, Ohio, Official Thoroughfare Plan, waterways, wetlands, one hundred (100) year flood plain, drainage easements other than the required side and rear lot line drainage easements required in the Warren County Subdivision Regulations for a plat, high pressure gas pipeline easements, and railroad easements.

- B. The maximum lot depth to width ratio shall be 5:1. This requirement applies to lots less than five acres in size. Panhandle lots regardless of size are exempt.

SEC. 6.07 PANHANDLE LOTS ARE PERMITTED SUBJECT TO THE FOLLOWING REGULATIONS:

- A. Panhandle lots shall not be "stacked" one behind the other relative to a street or road.
- B. The panhandle portion of the lots shall have a minimum frontage and continuous width of twenty (20) feet and a maximum frontage and width of forty (40) feet.
- C. The panhandle portion of the lots shall have a maximum length of six hundred (600) feet.
- D. The body of the lot shall have a minimum area that meets the minimum lot size established in section 6.05 (a) and is exclusive of the panhandle portion of the lot.
- E. The body shall have a minimum width of one hundred twenty-five (125) feet and a minimum depth of two hundred (200) feet.
- F. All structures shall be built only within the body of the panhandle lot.
- G. The principal structure shall have a minimum front yard of seventy-five (75) feet, rear yard of fifty (50) feet and a side yard of twenty (20) feet minimum each side.
- H. Any accessory structure shall have a minimum front yard of seventy-five (75) feet, rear yard of twenty (20) feet and a side yard of twenty (20) feet minimum each side.

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: "The intent in the future is for the existing resident (grandson on the 3.279 Ac tract) be granted Lot "C" as shown on the exhibit. This lot would include the existing cabin and pond. Lot "C" would stay as an agricultural lot and would be contiguous to his dwelling. To stay compliant with zoning, additional frontage would need to be added to Lot "B". The only way to achieve this is to separate the lake and cabin from Lot "C". Again, not the original intent or wishes of Mr. & Mrs. Logan. Utilities that run to the cabin would be on the wrong tract and cause billing and maintenance difficult." (See Exhibits: 5A-G, 8, 10, 11A-H)

The following issues need to be considered:

- The applicant has not illustrated the location of the utilities.
- On Survey Lot 13, Plat 178, an extension of Binkley Lane was shown with a 60' width and a depth of 730.75'. This area was also described in the deed Vol 400 Page 658-660. This area was never constructed to the applicable Warren County Road standards, accepted by the Township for maintenance or accepted into the Warren County Commissioner's inventory

as road right-of-way. It has been utilized by the owners of the parcels to access their parcels. (See Exhibits: 2G-J)

- After the combination and subdivision:
 - The area will be absorbed into Lot A and Lot B.
- Definitions 3.48 Lot Frontage and 3.74 Front Yard define the starting point for measuring the front yard setback to be the Lot Frontage (boundary that is coincident and in common with the road right-of-way).
 - For the purpose of measuring zoning setbacks and depth of panhandles, all lots (unplatted and platted) use the lot frontage as the location to start measuring the front yard setback and the start of a handle for a panhandle lot.
 - Unplatted lots start at the location on their property that is coincident with the road right-of-way easement.
 - Platted lots start at the location of their front property boundary which is coincident with the dedicated road right-of-way.
- The Binkley Lane Road right-of-way has a platted (dedicated) 15' width section and a 30' unplatted (easement) width section. (See Exhibits: 12A-G)
- Lot A will be configured from acreage from four (4) parcels (05-31-300-033, 05-31-300-034, 05-31-300-011 and 05-31-300-014). (See Exhibits: 1A-F, 2A-G, 3A-E, 4A-E)
 - On parcel 05-31-300-034:
 - A single-family dwelling was constructed in 1977. (See Exhibits: 2A-B)
 - An accessory structure was constructed in 1977. (See Exhibit: 2E)
 - A cabin accessory structure was constructed in 1993. (See Exhibit: 2C)
 - From parcel 05-31-300-033:
 - Per Survey Vol 7 Plat 88 and Survey Vol 129 Plat 16: road frontage of 132.80'. (See Exhibit: 12A)
 - Per Survey Vol 53 Plat 5: road frontage staff scaled to be approximately 130'. (See Exhibit: 1F)
 - After the combination and subdivision:
 - Per the applicant's proposed survey, the road frontage is proposed to be 129'. (See Exhibits: 8, 9)
 - It is unclear if the 129' is a more accurate representation of the road frontage or if a reduction has occurred. If the frontage has been reduced, then the frontage should be connected with proposed Lot B.
 - The minimum frontage of 120' has been met for this proposed lot.
- Lot B will be configured from acreage from four (4) parcels (05-31-300-033, 05-31-300-034, 05-31-300-011 and 05-31-300-014). (See Exhibits: 1A-F, 2A-G, 3A-E, 4A-E)
 - On parcel 05-31-300-034:
 - Per Survey Vol 13 Plat 178: road frontage of 30'. (See Exhibit: 2G)
 - Per Survey Vol 7 Plat 88: road frontage increased to 45'. (See Exhibit: 12A)
 - Per Survey Vol 53 Plat 5: road frontage of 45'. (See Exhibit: 1F)

- Per Survey Vol 129 Plat 16: road frontage reduced to 24.97'. (See Exhibit: 11E)
 - The acreage devoted to this parcel is vacant.
 - After the combination and subdivision:
 - Road frontage is proposed to be 20.25'. (See Exhibits 8-9)
 - It appears 4.72' will be removed from this frontage as a function of how the frontage was realigned. (See Exhibit: 9)
 - If the 4.72' is no longer part of proposed Lot B, it would need to be connected to a coincident parcel. That parcel would be 05-31-300-032. The frontage for this parcel would increase to 24.75'. (See Exhibits: 9, 11A-E)
 - The proposed road frontage is within the required range for a panhandle lot. (The minimum frontage for a panhandle lot is 20'. The maximum frontage for a panhandle lot is 40'.)
- Lot C is comprised of part of four (4) parcels (05-31-300-033, 05-31-300-034, 05-31-300-011 and 05-31-300-014). (See Exhibits: 1A-F, 2A-G, 3A-E, 4A-E)
 - From parcel 05-31-300-033:
 - Per Survey Vol 7 Plat 88 and Survey Vol 129 Plat 16: road frontage of 132.80'. (See Exhibit: 12A)
 - Per Survey Vol 53 Plat 5: road frontage staff scaled to be approximately 130'. (See Exhibit: 1F)
 - A single-family dwelling that was constructed in 1868 and was razed in 2023. (See Exhibits: 1A-B, 1I)
 - Three (3) agricultural accessory structures were constructed in 2020. (See Exhibit: 1C)
 - One (1) agricultural accessory structure was constructed in 2003. (See Exhibit: 1C)
 - After the combination and subdivision:
 - This parcel will not have road frontage. (See Exhibits: 8, 9, 10)
 - The cabin accessory structure and the agricultural accessory structures will remain on this parcel. (See Exhibits: 8, 10)
 - Since the acreage of this parcel exceeds five (5) acres, it can be classified as an agricultural parcel and not transferred without road frontage.
 - This parcel can be transferred with parcel 05-31-300-032 but can't be combined with the parcel unless a variance is approved that modifies the geometric of the panhandle body's width. (See Exhibits: 8, 9, 10, 11A, 11E)

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: "Due to site constraints, we are unable to reach rear Lot "B" w/o and extension of panhandle. Existing features such as existing barns, cabin, lake and various utilities prevent us from widening the frontage of Lot "B" to be compliant. It would not be feasible from a cost or maintenance aspect for the current owner or the Township to extend the Right of Way of

Binkley Lane further into the property. The intent would still be for 3 residential lots and the current driveway is already functioning adequately. Asking for a variance to which to OSR-1 would still not provide enough length to reach Lot "B". (See Exhibits: 8, 9, 10)

The following issues need to be considered:

- See # 1 above.
- Historical location of three (3) residential lots:
 - Parcel 05-31-300-033, account number 0101664 (14.7172 acres):
 - A home existed until it was razed in 2023. (See Exhibits: 1A, 1I)
 - The parcel was subdivided in 2006 in order to establish parcel 05-31-300-032, account 0143562 (3.2796 acres). A home was built on this new parcel in 2007. (See Exhibits: 11A-B, 11G-K)
 - Parcel 05-31-300-034, account number 0110833 (23.2532 acres):
 - Home was established in 1977. (See Exhibits 2A-B)
- Exhibit 10 shows the scaled location of the 600' ("TR-1") and 1,200' ("OSR-1") lengths of the panhandle as well as labels the location of the houses, accessory structures and cabin.
- The four (4) subject properties are currently non-conforming:
 - Parcel 05-31-300-033, account number 0101664 (14.7172 acres), is a non-conforming lot. The lot frontage of 132.80' exists along the western boundary of the private extension of Binkley Lane. This area bisected the property and the remaining acreage is landlocked. (See Exhibits: 1E-F)
 - Parcel 05-31-300-034, account number 0110833 (23.2532 acres) is a non-conforming lot. The road frontage meets the zoning requirements, the private extension of Binkley Lane functions as a panhandle but doesn't meet the regulations (60' width of the panhandle exceeds the 40' maximum width, and the 730.75' length of the handle exceeds the maximum 600' length). (See Exhibits: 2F-G)
 - Parcel 05-31-300-011, account 0121088 (5.9470 acres) is a landlocked parcel. (See Exhibits: 3D-E)
 - Parcel 05-31-300-014, account 0121827 (2.9890 acres) is a landlocked parcel. (See Exhibits: 4D-E)
- The proposed configuration eliminates the non-conforming status for Lot A and Lot C. (See Exhibits: 8, 9, 10)
- A variance is needed to use Lot B as a residential lot, it could be used agriculturally as configured. (See Exhibits: 8, 9, 10)
- The Warren County Aerial that depicts the 500' notice area is labeled Exhibit 13.
- Eleven (11) properties are zoned Township Residence Zone "TR-1". (See Location Map, Exhibits: 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 31)
 - This classification totals 156.3137 acres:
 - The smallest lot is 2.0011 acres. (See Exhibits: 13, 24)
 - The largest lot is 45.3170 acres. (See Exhibits: 13, 14)
 - The average lot is 14.210 acres (156.3137/11).

- Seven (7) properties are zoned Residence Zone “R-1”. (See Location Map, Exhibits: 13, 16, 25, 26, 27, 28, 29, 30)
 - This classification totals 15.4588 acres:
 - The smallest lot is .50 acres. (See Exhibits: 13, 27)
 - The largest lot is 7.4522 acres. (See Exhibits: 13, 16)
 - The average lot is 2.2084 acres (15.4588/7).
- One (1) property is zoned Residence Rural Residence Zone Planned Unit Development “R-1PUD”. (See Location Map, Exhibits: 13, 22)
 - This classification totals 43.2290 acres:
- See staff photos. (Exhibits:32A-H)

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

The applicant states: “As listed in #2. - The intent of the variance request would still provide for a maximum of 3 residential lots as it currently exists.”

The following issues need to be considered:

- See # 1 & 2 above.

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: “Limiting factor: 1. Still can't meet zoning by switching to another district. Ex OSR-1 is maximum 1200' panhandle. The applicant is requesting 1520 +/- linear feet panhandle to reach the northern portion of the site without impacting access to the pond and cabin for Lot "C"”. (See Exhibits: 8, 10)

The following issues need to be considered:

- Staff has labeled the TR-1 and the OSR-1 Panhandle lengths on the proposed request in Exhibit 10.
- The current zoning classification is Township Residence Zone “TR-1”:
 - Regular lots require a minimum of 120’ of road frontage.
 - Panhandle lots:
 - Require a minimum of 20’ maximum of 40’ of road frontage.
 - Require a maximum length of the handle to be 600’.
 - Only Lot B needs a variance to allow the increased length of the handle.
- If the properties were rezoned to Open Space Rural Residence Zone “OSR-1”:
 - Regular lots require a minimum of 140’ of road frontage.
 - Panhandle lots:
 - Require a minimum of 20’ maximum of 40’ of road frontage.
 - Require a maximum length of the handle to be 1,200’.
 - Lot A would need a variance for not meeting the minimum frontage requirement.
 - Lot B would need a variance for not meeting the minimum frontage requirement.
 - Lot B would still need a variance to allow the increased length of the handle.

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

The applicant states: "Per Above ... 1. To provide the option for a buildable site in the northern portion of the property Lot "B" 2. Allowing the cabin, pond and existing barns be part of Lot "C"

The following issues need to be considered:

- See # 4 above.

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

The applicant states: "Mr. and Mrs. Logan were not aware that the configuration of the property and the surrounding features that they constructed over the years would cause hardship for the property to be divide per their wishes."

The following issues need to be considered:

- Parcel 05-31-300-033, (14.7172 acres) was acquired May 2, 1983. Charles J. Logan and Dorothy C. Logan were involved with transfer. (See Exhibits: 1G-H, 11I-H)
- Parcel 05-31-300-034 (23.2532 acres) was acquired November 17, 1968. Charles J. Logan and Dorothy C. Logan were involved with the creation of the parcel. (See Exhibits: 2H-J)
- Parcel 05-31-300-011 (5.9470 acres) was acquired February 17, 1976. Charles J. Logan and Dorothy C. Logan were involved with the creation of the parcel. (See Exhibits: 3F-I)
- Parcel 05-31-300-014 (2.9890 acres) was acquired on August 12, 1977. Charles J. Logan and Dorothy C. Logan were involved with the creation of the parcel. (See Exhibits: 4F-G)

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

The applicant states: "As previously stated, the original tract has supported 3 residences. The old original farmhouse has recently been razed and removed due to health and safety issues. The intent is to establish a pan handle and a buildable area for the north portion of the property. This area is heavily wooded around the perimeter and would cause no distress to the adjoined properties."

The following issues need to be considered:

- See # 1 & 2 above.
- See staff photos. (See Exhibits: 32A-H)

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: "The purpose of this variance is to help Dorothy C. Loagan appropriately divide her estate upon death to her children and grandchildren as per the wishes of her and her deceased husband. Over the years, this estate has had barns, cabins and ponds built on the property. Not knowingly realizing the impact and hardship this could place on future generations. The intent is to provide approximately equal distribution among the siblings and to provide a total of three buildable lots, just as it currently exists today. If this variance is granted, the property would have a boundary and location survey performed in accordance with township and county standards. This will further define existing features of the property and the appropriate location for the panhandle to Lot "B" Thank you for your consideration and help!!" (See Exhibits:8, 9, 10)

The following issues need to be considered:

- See # 1, 2 & 4 above.
- **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.