

AGENDA

December 6, 2021

PLANNING COMMISSION/BOARD OF ZONING APPEALS

7:00 PM

Roll Call

Minutes

Meeting of November 1, 2021

Cases

CASE NO. 2021-2033

David and Valerie Lander, the property owners of 7435 Belkay Drive, are seeking variances to Village Zoning Code Sections 154.12, 154.14, and 154.52. If approved, the variances would allow the previously constructed patio to extend beyond 10' into the front yard, and the architectural wall and fire pit to remain in the front yard as constructed.

New Business

Adjournment

**MINUTES OF THE REGULAR MEETING OF THE
AMBERLEY VILLAGE BOARD OF ZONING APPEALS/PLANNING COMMISSION
MONDAY, NOVEMBER 1, 2021**

Chairperson Richard Bardach called to order the regular meeting of the Amberley Village Board of Zoning Appeals/Planning Commission at the Amberley Village Municipal Building in Council Chambers on Monday, November 1, 2021 at 7:00 p.m.

Roll was taken as follows:

PRESENT:

Rich Bardach
Scott Wolf
Susan Rissover
Scott Rubenstein
Rick Lauer

ALSO PRESENT:

Andrew Kaake, Village Solicitor
Wes Brown, Zoning Administrator
Scot Lahrmer, Village Manager
Tammy Reasoner, Clerk of Council

Chairman Bardach welcomed everyone to the meeting and led those in attendance in the Pledge of Allegiance.

Chairman Bardach asked if there were any corrections to the minutes of the October 4, 2021 meeting. There being none, the minutes were accepted as submitted.

CASE NO. 2021-2004

Mr. Brown introduced Case No. 2021-2004, in which Evan Polaski and Nicole Nichols, the property owners of 3132 Esther Drive, request a variance to Zoning Code Section 158.15. If approved, the variance would allow for the installation of roof-mounted solar panels on the front plane of their home.

Amberley Village Code Section 158.15(A) states that roof-mounted systems are not permitted in the front yard or on the front plane of a structure. Therefore, the variance is required for the 16 panels shown in the plan to be installed on the front plane of the house.

Mr. Polaski stated Mr. Brown had well summarized their request for the solar panels, and he had nothing more to add. Ms. Nichols said their household was powered nearly 100% by electricity in anticipation of installing solar panels.

Mr. Wolf commented on the improvements in solar paneling since the Village first required a variance for installation, and said the plans looked good.

Ms. Rissover asked if there was any feedback from neighbors. Kurt and Tonya Bruggemann of 3116 Esther Drive expressed their support of the project, and Bob Roth of 8068 Sagamore Drive said he was in favor of any efforts to fight climate change provided it didn't detract from the rural feel of the Village. Mr. Roth suggested the Board consider changes to Village Code to make it easier for residents to utilize solar panels.

Ms. Rissover said the plans were well presented and moved to approve the variance. Mr. Rubenstein seconded the motion, and the motion passed unanimously.

NEW BUSINESS

There being no new business, Chairman Bardach announced the meeting was adjourned at 7:08 p.m.

Tammy Reasoner, Clerk of Council

Richard Bardach, Chairperson



7149 Ridge Road
Amberley Village, OH 45237

513-531-8675 *phone*
513-531-8154 *fax*

amberleyvillage.org

PLANNING COMMISSION
MEETING NOTICE

WHEN: December 6, 2021 at 7:00 PM
WHERE: Amberley Village Municipal Building, 7149 Ridge Road
FROM: Scot Lahrmer, Village Manager

Please be advised there will be a public meeting held by the Amberley Village Planning Commission and the Board of Zoning Appeals on **Monday, December 6, 2021**, at 7:00 p.m. in the Council Chambers of the Amberley Village Municipal Building, 7149 Ridge Road. The public meeting will be held to review the following item:

David and Valerie Lander, the property owners of 7435 Belkay Drive, are seeking variances to Village Zoning Code Sections 154.12, 154.14, and 154.52. If approved, the variances would allow the previously constructed patio to extend beyond 10' into the front yard, and the architectural wall and fire pit to remain in the front yard as constructed.

If you are interested in reviewing the application you may do so Monday through Friday, 8:00 a.m. to 4:00 p.m. at the Amberley Village Municipal Building, 7149 Ridge Road, or you may attend the **Monday, December 6, 2021**. Planning Commission and Board of Zoning Appeals public meeting. If you should have any questions, please feel free to contact Scot Lahrmer at (513) 531-8675.

cc: Valerie & David Lander, 7345 Belkay Drive
Sunok Chi Frank, 7415 Belkay Drive
Larry & Victoria Temin, 7400 Belkay Drive
Robert Dizenhuz & Sharon Elikan, 7420 Belkay Drive
Elinor Ziv, 2955 Belkay Lane
Nelson & Jeanne Choi-Rosen, 2930 Belkay Lane
Ryan & Kati Jeanneret, 2905 Belkay Lane

POSTED 11/24/2021



7149 Ridge Road
Amberley Village, OH 45237

513-531-8675 *phone*
513-531-8154 *fax*

amberleyvillage.org

Amberley Village Planning Commission Staff Report

December 6, 2021

Subject:

7435 Belkay Drive

Variance:

Patio, fire pit and wall in front yard

Item: Case#2021-2033

Variance Request: David and Valerie Lander, the property owners of 7435 Belkay Drive, are seeking variances to Village Zoning Code Sections 154.12, 154.14, and 154.52. If approved, the variances would allow the previously constructed patio to extend beyond 10' into the front yard, and the architectural wall and fire pit to remain in the front yard as constructed.

Zoning Code Review: 154.12 ACCESSORY STRUCTURES. (A) An accessory structure is permitted in a residential district if it meets the following restrictions:

(1) No accessory structure shall be erected in a front yard.

154.14 FENCES, WALLS, AND HEDGES. (A) Notwithstanding other provisions of this Zoning Code, fences and walls not exceeding four and one-half feet in height may be permitted in any required side or rear yard, provided that no fence or wall shall be permitted in any part of a front yard.

154.52 YARD EXCEPTIONS. (A) An open unenclosed porch, deck, patio or paved terrace may project into a front yard for a distance not exceeding ten feet, or into a side yard for a distance not more than half the side yard required.

Variance Review: Mr. and Mrs. Lander, are the property owners of 7435 Belkay Drive and are requesting variances to Village Zoning Code Sections 154.12, 154.14, and 154.52. If approved, the variances would allow the previously constructed patio to extend beyond 10' into the front yard, and the architectural wall and fire pit to remain in the front yard as constructed.

Mr. and Mrs. Lander's property is just under 1 acre (.94 acres), located at the corner of Belkay Lane and Belkay Drive, with two front yards. The majority of the lot is located in the front yards and the rear yard slopes away from the house and driveway to the neighbor's fence and pool.

Mr. and Mrs. Lander received zoning approval in August of 2020 to replace the existing front patio and sidewalk. The drawing showed the patio extending 30' into the front yard and the sidewalk extending from the driveway in the rear of the house to the front patio. The drawing also showed a black line in the location of part of the new wall; this was not labeled as a wall, and what appeared to be a square portable fire pit and four chairs on the patio.

Believing that everything was approved, earlier this year Mr. and Mrs. Lander's contractor began construction on the patio and sidewalk project. As the project was nearing completion, staff received an inquiry as to whether the project met the regulations of the Village Zoning Code. Village Staff pulled the zoning approval and visited the site and during this visit, staff learned of the wall and permanent fire pit and made contact with Mr. and Mrs. Lander.

Staff approved these drawings in August, due to the belief that this was the size of the existing patio and was not aware the plan was to include a 3.5' high by 19' long wall and a permanent fire pit. Staff was also not aware the plan was to include electricity being run to the end of the patio or gas being run to the fire pit.

The letter to the Board states that the project was approved in error and that the landscape drawing depicted the wall and fire pit. Only the depth of the patio was approved in error. The drawing is two-dimensional and there is no mention of adding a wall or that the fire pit would be permanent. Also, staff was with the understanding that they were only replacing the existing patio and sidewalk.

Otherwise, this project would have been sent to the Board for the required variances when the drawing was submitted.

The patio project as it was built includes the following features:

- A) 30'x36' patio that extends 22' from the roofline of the house, 12' beyond what is permitted by Village Code.
- B) 4'6" wide sidewalk that extends from the driveway in the rear of the house to the front patio.
- C) 3.5' high by 19' long wall, fences and walls are not permitted to be located in the front yard.
- D) Permanent triangular gas fire pit, a permanent fire pit is considered an accessory structure, and an accessory structure is not permitted to be located in the front yard.

The letter to the Board states that with the house being located on the rear half of the lot, the topography of the rear yard, and the depth of the front yard, the front yard is the best location for the seating area. The letter also states that with the close proximity of the neighbor's pool to the back of their house and the back of the house being angled toward the pool, there is no other logical place for the patio.

This project requires three variances from the Village Zoning Code.

- 1) A variance from Zoning Code Section 154.12 (A), to allow an accessory structure (permanent fire pit) to be located in the front yard.
- 2) A variance from Zoning Code Section 154.14 (A), to allow for the 3.5' high by 19' long wall to be located in the front yard.
- 3) A variance from Zoning Code Section 154.52, to allow the unenclosed patio to extend more than 10' into the front yard.

Therefore, the variances are required for the patio, wall, and fire pit to remain as constructed.

Project Recommendations: The project is to be considered on its merits.

Date: November 15, 2021

Mr. Scot F. Lahrmer
Village Manager
7149 Ridge Road
Cincinnati, OH 45237

RE: Zoning Approval - Variance

Dear Mr. Lahrmer:

I hereby request a zoning approval for:

Approval of a variance for a patio,
fire pit, and feature wall in the front
yard of the property. See attached letter.

The structure is proposed at the following address:

7435 Belkay Drive

I certify the attached plat and measurements are accurate.

Ryan Rayburn
Contractor's Name

570 Branchhill-Loveland Rd.

Loveland, OH 45140

Contractor's Address

513-607-4164

Telephone Number

Sincerely,



Homeowner's Signature

Emily Supinger, attorney
for Dave and Valerie Lander

Homeowner's Printed Name

513-768-9782

Telephone Number (daytime)

November 15, 2021

Amberley Village Board of Zoning Appeals
7149 Ridge Road
Cincinnati, Ohio 45237

RE: Application for Zoning Variance
Property: 7435 Belkay Drive
Re: Memorandum in Support of Variance Request

Dear Members of the Board of Zoning Appeals,

I represent Dave and Valerie Lander regarding their application for a zoning variance for outdoor hardscape and landscape improvements recently completed at their home located at 7435 Belkay Drive.

Mr. and Mrs. Lander purchased their 1956 mid-century modern home on Belkay Drive in 2018. The property is just under one acre in size, and the home is situated on the rear half of the property. As a result, the majority of the one-acre lot constitutes "front yard" under the Amberley Village Zoning Code ("AVZC"). Much of the rear yard of the property consists of an existing driveway. The topography of the property is such that the rear yard beyond the driveway area has a significant slope away from the home. As a result, there is no practical location in the backyard for an outdoor seating area. Attached to this letter are several CAGIS maps depicting the size and configuration of the lot, the location of the home, and the topography of the property. (Exhibits A, B, and C).

When Mr. and Mrs. Lander purchased the property, there was an existing patio located in the front yard adjacent to the front of the house. The patio was in poor condition, so in 2020, the Landers hired a landscape architect to design a new outdoor space to replace the existing one. The design included replacement and expansion of the existing patio and the installation of a low privacy wall and a fire pit. The Landers submitted their design, depicting the above-mentioned elements, to the Amberley Village Zoning Department. On August 21, 2020, the Landers received a letter from Richard Wallace, advising that their application had been approved. Exhibit D is a photograph of the home when it was purchased by the Landers. Exhibit E is a photograph of the previous patio. Exhibit F is a copy of the approved landscape plan. Exhibit G is the zoning approval letter.

The Landers subsequently worked with their contractor to replace and enlarge the patio area and add the improvements, all designed to complement the mid-century modern features of the home. On October 4, 2021, after the hardscape elements had been installed and the project was nearing completion, the Landers were contacted by

Wes Brown, the Amberley Village Zoning Administrator, who advised that there were three aspects of the patio that did not comply with the requirements of the Zoning Code: the location of the privacy wall, the location of the fire pit, and the depth of the patio from the house. Mr. and Mrs. Lander were advised that zoning approval was issued in error and they would need to obtain a zoning variance to permit these items.

The Landers were understandably distressed to learn that their improvements were not permitted, as they believed that they had complied with all necessary requirements by submitting their plans and obtaining approval. They made a substantial financial investment to improve their home, and to learn that the Village's zoning approval was in error has caused them great concern and stress. While after-the-fact zoning approvals are normally not well-taken, it is important for the Board to understand that the Landers would never have proceeded with installing the improvements if they had known the plans did not comply with the Village's requirements. Their plans were stamped "APPROVED AMBERLEY VILLAGE ZONING" on August 25, 2020, and they proceeded in reliance on that approval.

The specific code sections of the AVZC from which the Landers seek relief are Section 154.14 Fences, Walls, and Hedges, Section 154.12 Accessory Structures, and Section 154.52 Yard Exceptions. Sections 154.14 and 154.12 restrict the location of walls and accessory structures such that they are not permitted in the front yard. Section 154.52 limits how far an open unenclosed porch, deck, patio or paved terrace may project into a front yard to a distance not to exceed 10 feet.

The Board of Zoning Appeals has the power to authorize variances from these requirements where, owing to special conditions of the lot, "a literal enforcement of the provisions of the Zoning Code will result in *** practical difficulties in the case of an area variance." See AVZC Section 154.67. In determining whether a variance should be granted, the Board may consider and weigh the following factors: (1) whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; (2) whether the variance is substantial; whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance; (3) whether the variance would adversely affect the delivery of governmental services, that is water, sewer, garbage; (4) whether the property owner purchased the property with knowledge of the zoning restriction; (5) whether the property owner's predicament feasibly can be obviated through some method other than a variance; and (6) or whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. These factors are not exclusive, and the Board can take into account other factors that may support the requested relief.

A. The Depth of the Patio

The patio replaces and slightly expands a patio that had previously been installed in the front of the house. While the previous patio, which was in poor condition, did not contribute to the historical nature of the mid-century modern home, the new blue stone patio and walkway was designed to enhance the architecture of the structure and provide an outdoor seating space for the Landers to enjoy. Given the nearly one acre lot, most of which is located in the front yard, the patio is modest in size and scaled to complement the home. The AVZC permits an unenclosed patio to extend 10 feet into the front yard. The patio that the Landers constructed (and depicted on the approved plans) extends 22 feet from the roof line, and therefore exceeds the permitted distance from the house by 12 feet.

Due to the location of the home on the rear half of the lot, the triangular shape of the lot, and the sloping topography in the rear of the property, as well as the expansive and park-like setting of the Landers front yard, there is no other logical place on the lot to place an outdoor seating area. Indeed, the front yard already had an existing patio in the same location. In addition, the neighboring property to the north has a large in-ground pool in the rear of the property in close proximity to the Landers's rear yard. As such, the placement of the Landers' outdoor seating area in the front of the home affords both property owners more individual privacy. Moreover, the patio is not located near any neighboring structure. The nearest edge of the patio is approximately 90 feet to the nearest home, and almost 200 feet to the right of way.

B. The Wall

Part of the Landers hardscape design includes the installation of a low wall. The wall creates an architectural feature for the home, acts to provide some privacy to the Landers' seating area, and protects the seating area and firepit from wind. The wall is 3' 8" tall. The longer section of the wall is 16' long, and the shorter side is 3'5" long.

Like the patio, the wall is insubstantial in relation to the large front yard and distance from the right of way. In addition, the Landers front yard contains gradual sloping hills and trees that minimize the appearance of the wall from the right of way. Finally, there is another property located in very close proximity to the Landers' home that also has a small wall located in the front yard.

C. The Fire Pit

The final element of the Landers' patio hardscape installation was the addition of a custom fire pit. The fire pit is triangular in shape, and was designed to match the mid-century design of the home and the architectural features of the wall. The fire pit is 18" high. Two of the sides are 6'8" long and the third side is 8'4" long. The fire pit is hidden from view from the street by the wall, and is an unobtrusive addition to the outdoor seating

area. While the feature is a permanent structure, it is worth noting that a portable fire pit in the same location would be permitted. As such, the variance for the fire pit will not constitute a major deviation from the requirements of the zoning code.

D. Analysis of Variance Request

As indicated above, the AVZC sets forth several factors for the Board to consider in deciding whether to grant a variance request. In this particular matter, the factors weigh strongly in favor of granting the request. First and foremost, the Landers would suffer significant hardship if the variance is denied. They submitted their landscape plans to the zoning department, which depicted the size of the patio as well as the wall and fire pit area. They made a substantial financial investment to complete the construction and were not advised until after the work had been complete that the project required variances. This in and of itself justifies the approval of the variance.

But placing the previous approval issue aside, the size of the lot, location of the home on the rear half of the lot, and the sloping topography in the rear of the property all support the Landers' desire to have their outdoor seating area, a customary and normal asset of any home, in the front of the home. In addition, the mid-century modern design of the home aesthetically lends itself to such an arrangement. Neighboring properties are not impaired by the location of the seating area in the front of the home, as the seating area is a great distance from the right of way and the neighboring homes. The wall further enhances the appearance of the patio area, provides the Landers with privacy, and hides the fire pit from view.

Thank you for your kind attention in this matter. Pictures of the improvements are included in this application as Exhibits H-1 through H-5, and the Landers welcome the Board members to view the improvements in person.

Sincerely,

STRAUSS TROY

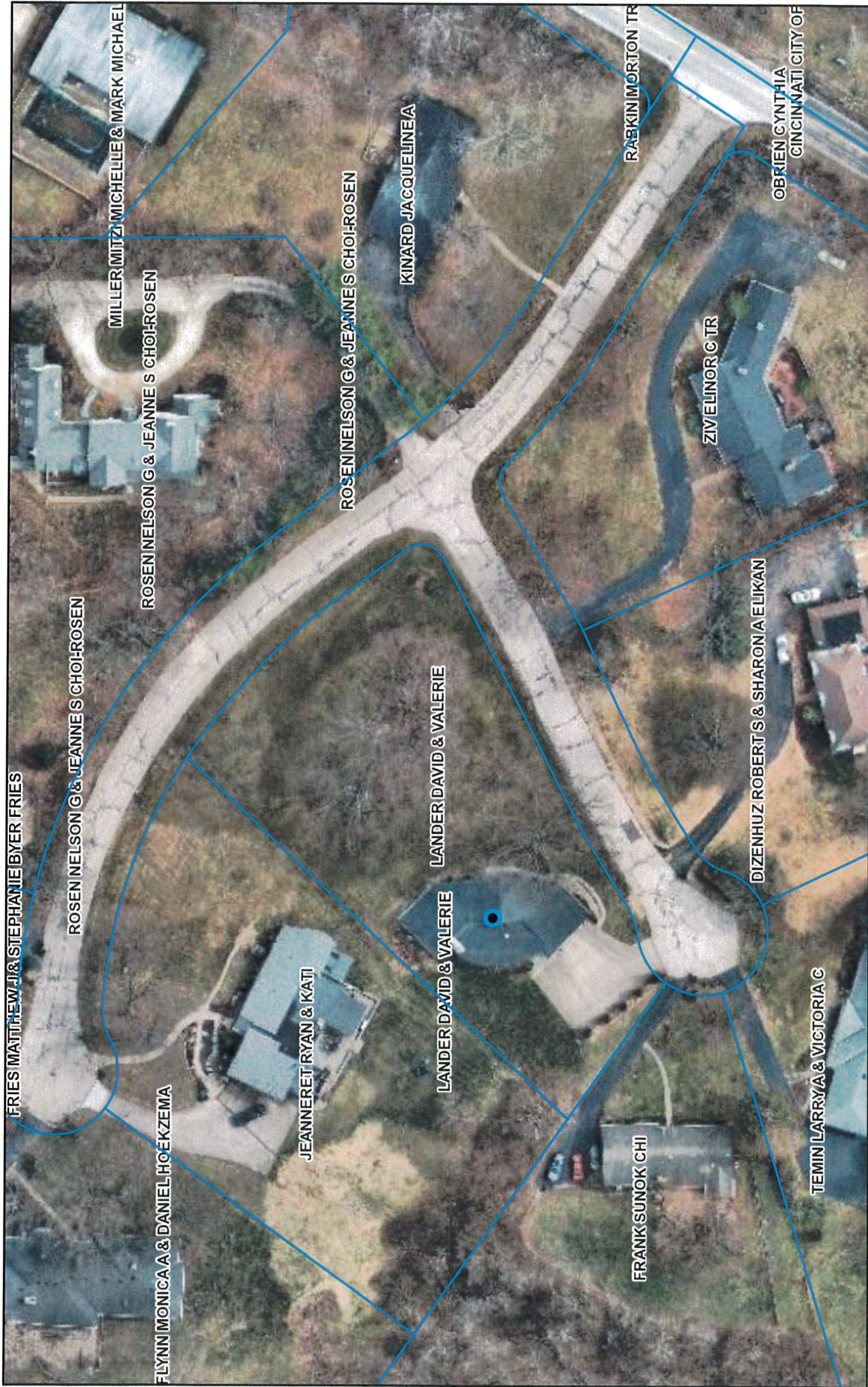


Emily Supinger

cc: Dave and Valerie Lander (via email)
Andrew Kaake (via email arkaake@woodlamping.com)
Jeff Forbes (via email jdforbes@woodlamping.com)

15476027

CAGIS Map

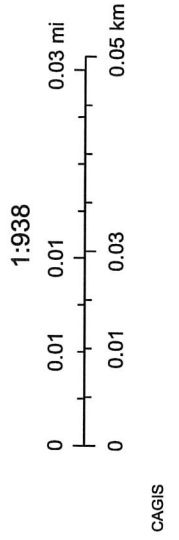


11/10/2021, 3:47:41 PM

Hamilton County Political Jurisdictions

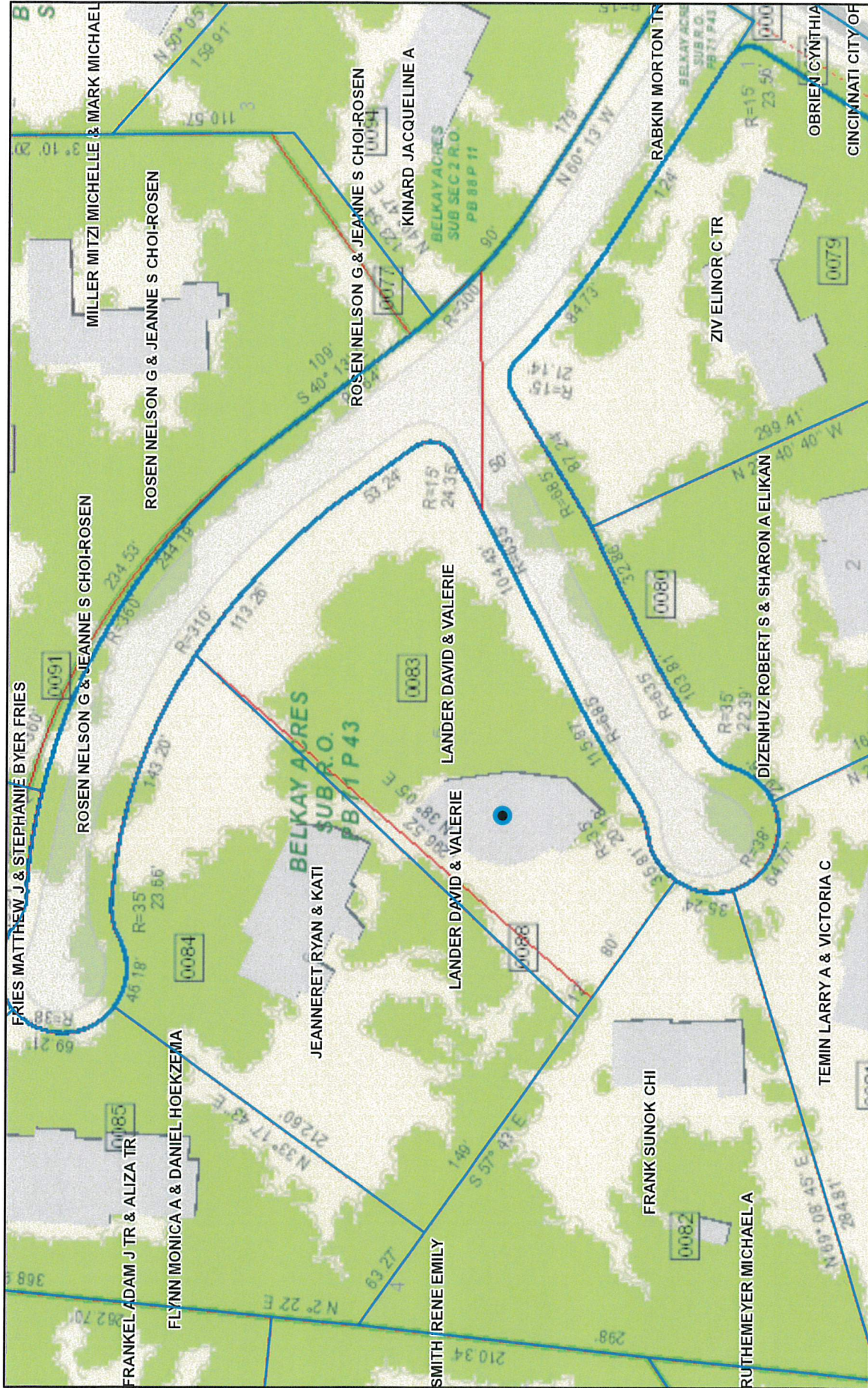
Property Boundaries

EXHIBIT A



CAGIS User
CAGIS |

CAGIS Map



CAGIS Map

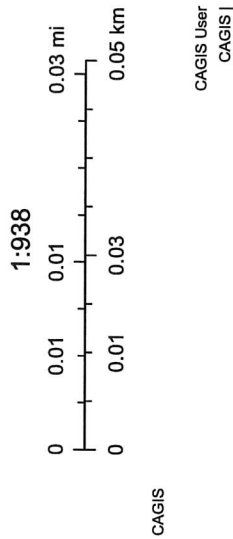
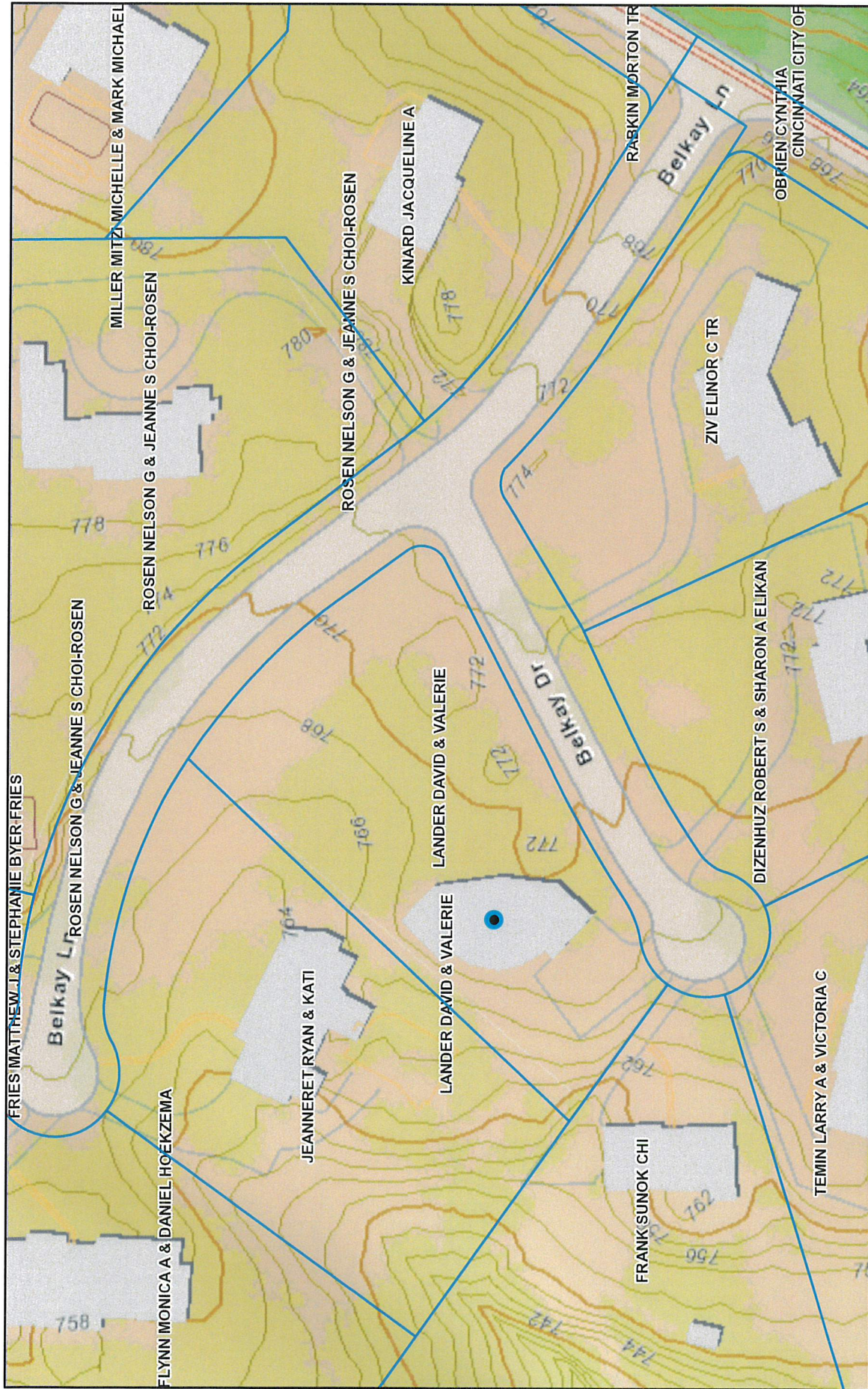


EXHIBIT C

11/10/2021, 3:57:04 PM
 Hamilton County Political Jurisdictions
 Property Boundaries

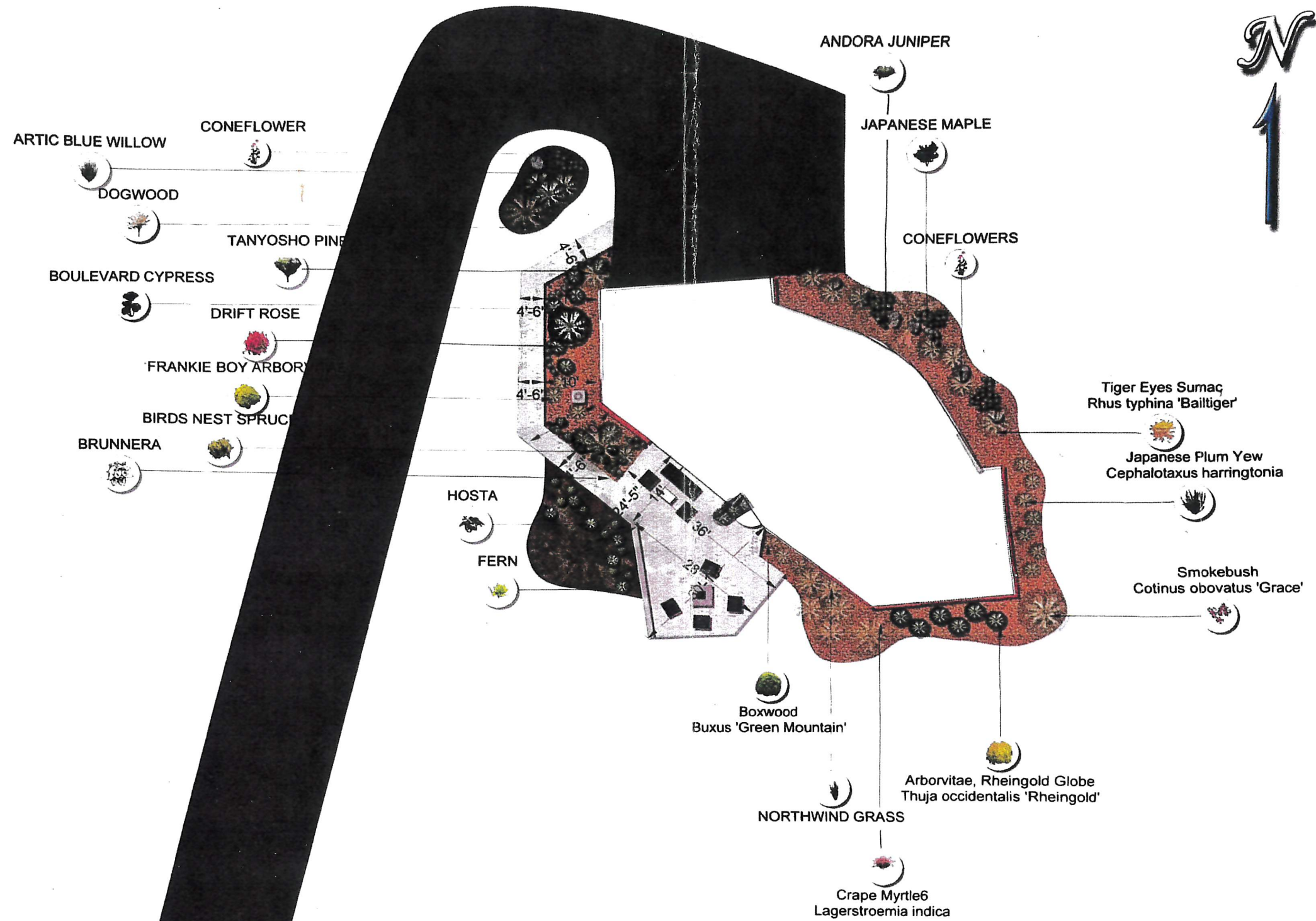
CAGIS User
 CAGIS I



EXHIBIT D

EXHIBIT E





LANDER RESIDENCE
7435 BELKAY DR
CINCINNATI, OH 45237

APPROVED
AMBERLEY VILLAGE ZONING

8/15/2026 (DATE)
[Signature] (SIGNATURE)

Lighting Legend
Spotlights (5)
Pathway (4)
Wall lights (4)

DRAWING TITLE
b2ck
Landscaping, Inc.
Scale: 1" = 10'
Date: 8/31/2016

Amberley Village

7149 Ridge Road
Amberley Village, OH 45237

513-531-8675 *phone*
513-531-8154 *fax*

amberleyvillage.org

August 21, 2020

Mayor

Thomas C. Muething

Vice Mayor

Natalie Wolf

Council

Richard Bardach

Peg Conway

Ed Hattenbach

Elida Kamine

Ray Warren

Village Manager

Scot F. Lahmer

Police, Fire Chief

Richard L. Wallace

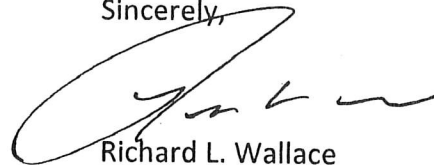
David and Valerie Lander
7435 Belkay Drive
Amberley Village, Ohio 45237

Dear Mr. and Mrs. Lander,

This is to advise you that zoning approval is granted for the replacement of the existing gravel sidewalk and patio with slate pavers in the front of the house located at 7435 Belkay Drive.

In the planning and construction of these improvements, you are to meet all requirements of the Amberley Village Code and the Hamilton County Building Code.

Sincerely,



Richard L. Wallace
Police/Fire Chief

EXHIBIT G



EXHIBIT H-1

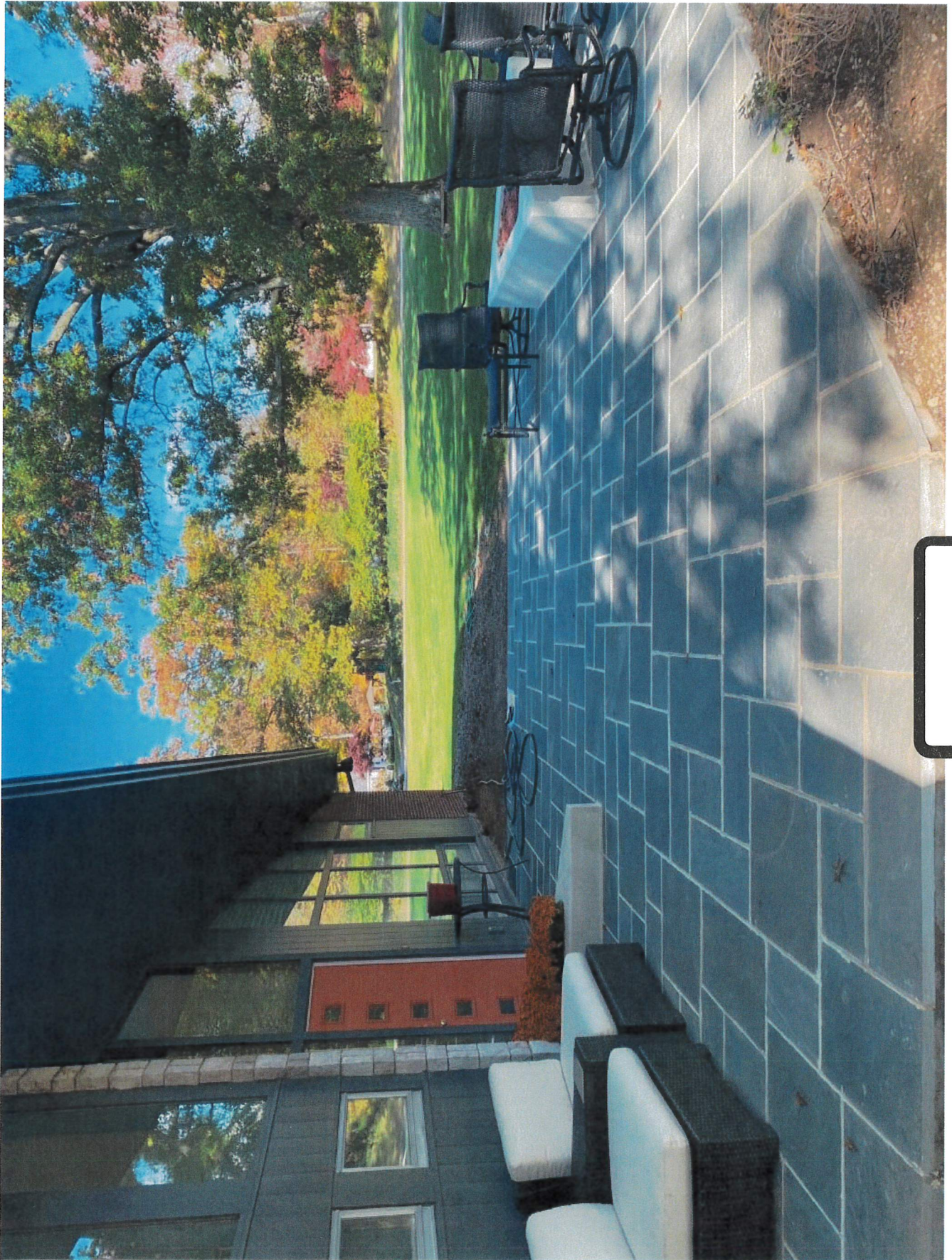


EXHIBIT H-2



EXHIBIT H-3



EXHIBIT H-4



EXHIBIT H-5

Date: November 15, 2021

Mr. Scot F. Lahrmer
Village Manager
7149 Ridge Road
Cincinnati, OH 45237

RE: Zoning Approval - Variance

Dear Mr. Lahrmer:

I hereby request a zoning approval for:

Approval of a variance for a patio,
fire pit, and feature wall in the front
yard of the property. See attached letter.

The structure is proposed at the following address:

7435 Belkay Drive

I certify the attached plat and measurements are accurate.

Ryan Rayburn
Contractor's Name

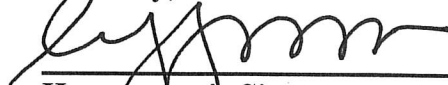
570 Branchhill-Loveland Rd.

Loveland, OH 45140

Contractor's Address

513-607-4164
Telephone Number

Sincerely,



Homeowner's Signature

Emily Supinger, attorney
for Dave and Valerie Lander

Homeowner's Printed Name

513-768-9782

Telephone Number (daytime)

November 15, 2021

Amberley Village Board of Zoning Appeals
7149 Ridge Road
Cincinnati, Ohio 45237

RE: Application for Zoning Variance
Property: 7435 Belkay Drive
Re: Memorandum in Support of Variance Request

Dear Members of the Board of Zoning Appeals,

I represent Dave and Valerie Lander regarding their application for a zoning variance for outdoor hardscape and landscape improvements recently completed at their home located at 7435 Belkay Drive.

Mr. and Mrs. Lander purchased their 1956 mid-century modern home on Belkay Drive in 2018. The property is just under one acre in size, and the home is situated on the rear half of the property. As a result, the majority of the one-acre lot constitutes "front yard" under the Amberley Village Zoning Code ("AVZC"). Much of the rear yard of the property consists of an existing driveway. The topography of the property is such that the rear yard beyond the driveway area has a significant slope away from the home. As a result, there is no practical location in the backyard for an outdoor seating area. Attached to this letter are several CAGIS maps depicting the size and configuration of the lot, the location of the home, and the topography of the property. (Exhibits A, B, and C).

When Mr. and Mrs. Lander purchased the property, there was an existing patio located in the front yard adjacent to the front of the house. The patio was in poor condition, so in 2020, the Landers hired a landscape architect to design a new outdoor space to replace the existing one. The design included replacement and expansion of the existing patio and the installation of a low privacy wall and a fire pit. The Landers submitted their design, depicting the above-mentioned elements, to the Amberley Village Zoning Department. On August 21, 2020, the Landers received a letter from Richard Wallace, advising that their application had been approved. Exhibit D is a photograph of the home when it was purchased by the Landers. Exhibit E is a photograph of the previous patio. Exhibit F is a copy of the approved landscape plan. Exhibit G is the zoning approval letter.

The Landers subsequently worked with their contractor to replace and enlarge the patio area and add the improvements, all designed to complement the mid-century modern features of the home. On October 4, 2021, after the hardscape elements had been installed and the project was nearing completion, the Landers were contacted by

Wes Brown, the Amberley Village Zoning Administrator, who advised that there were three aspects of the patio that did not comply with the requirements of the Zoning Code: the location of the privacy wall, the location of the fire pit, and the depth of the patio from the house. Mr. and Mrs. Lander were advised that zoning approval was issued in error and they would need to obtain a zoning variance to permit these items.

The Landers were understandably distressed to learn that their improvements were not permitted, as they believed that they had complied with all necessary requirements by submitting their plans and obtaining approval. They made a substantial financial investment to improve their home, and to learn that the Village's zoning approval was in error has caused them great concern and stress. While after-the-fact zoning approvals are normally not well-taken, it is important for the Board to understand that the Landers would never have proceeded with installing the improvements if they had known the plans did not comply with the Village's requirements. Their plans were stamped "APPROVED AMBERLEY VILLAGE ZONING" on August 25, 2020, and they proceeded in reliance on that approval.

The specific code sections of the AVZC from which the Landers seek relief are Section 154.14 Fences, Walls, and Hedges, Section 154.12 Accessory Structures, and Section 154.52 Yard Exceptions. Sections 154.14 and 154.12 restrict the location of walls and accessory structures such that they are not permitted in the front yard. Section 154.52 limits how far an open unenclosed porch, deck, patio or paved terrace may project into a front yard to a distance not to exceed 10 feet.

The Board of Zoning Appeals has the power to authorize variances from these requirements where, owing to special conditions of the lot, "a literal enforcement of the provisions of the Zoning Code will result in *** practical difficulties in the case of an area variance." See AVZC Section 154.67. In determining whether a variance should be granted, the Board may consider and weigh the following factors: (1) whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; (2) whether the variance is substantial; whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance; (3) whether the variance would adversely affect the delivery of governmental services, that is water, sewer, garbage; (4) whether the property owner purchased the property with knowledge of the zoning restriction; (5) whether the property owner's predicament feasibly can be obviated through some method other than a variance; and (6) or whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. These factors are not exclusive, and the Board can take into account other factors that may support the requested relief.

A. The Depth of the Patio

The patio replaces and slightly expands a patio that had previously been installed in the front of the house. While the previous patio, which was in poor condition, did not contribute to the historical nature of the mid-century modern home, the new blue stone patio and walkway was designed to enhance the architecture of the structure and provide an outdoor seating space for the Landers to enjoy. Given the nearly one acre lot, most of which is located in the front yard, the patio is modest in size and scaled to complement the home. The AVZC permits an unenclosed patio to extend 10 feet into the front yard. The patio that the Landers constructed (and depicted on the approved plans) extends 22 feet from the roof line, and therefore exceeds the permitted distance from the house by 12 feet.

Due to the location of the home on the rear half of the lot, the triangular shape of the lot, and the sloping topography in the rear of the property, as well as the expansive and park-like setting of the Landers front yard, there is no other logical place on the lot to place an outdoor seating area. Indeed, the front yard already had an existing patio in the same location. In addition, the neighboring property to the north has a large in-ground pool in the rear of the property in close proximity to the Landers's rear yard. As such, the placement of the Landers' outdoor seating area in the front of the home affords both property owners more individual privacy. Moreover, the patio is not located near any neighboring structure. The nearest edge of the patio is approximately 90 feet to the nearest home, and almost 200 feet to the right of way.

B. The Wall

Part of the Landers hardscape design includes the installation of a low wall. The wall creates an architectural feature for the home, acts to provide some privacy to the Landers' seating area, and protects the seating area and firepit from wind. The wall is 3' 8" tall. The longer section of the wall is 16' long, and the shorter side is 3'5" long.

Like the patio, the wall is insubstantial in relation to the large front yard and distance from the right of way. In addition, the Landers front yard contains gradual sloping hills and trees that minimize the appearance of the wall from the right of way. Finally, there is another property located in very close proximity to the Landers' home that also has a small wall located in the front yard.

C. The Fire Pit

The final element of the Landers' patio hardscape installation was the addition of a custom fire pit. The fire pit is triangular in shape, and was designed to match the mid-century design of the home and the architectural features of the wall. The fire pit is 18" high. Two of the sides are 6'8" long and the third side is 8'4" long. The fire pit is hidden from view from the street by the wall, and is an unobtrusive addition to the outdoor seating

area. While the feature is a permanent structure, it is worth noting that a portable fire pit in the same location would be permitted. As such, the variance for the fire pit will not constitute a major deviation from the requirements of the zoning code.

D. Analysis of Variance Request

As indicated above, the AVZC sets forth several factors for the Board to consider in deciding whether to grant a variance request. In this particular matter, the factors weigh strongly in favor of granting the request. First and foremost, the Landers would suffer significant hardship if the variance is denied. They submitted their landscape plans to the zoning department, which depicted the size of the patio as well as the wall and fire pit area. They made a substantial financial investment to complete the construction and were not advised until after the work had been complete that the project required variances. This in and of itself justifies the approval of the variance.

But placing the previous approval issue aside, the size of the lot, location of the home on the rear half of the lot, and the sloping topography in the rear of the property all support the Landers' desire to have their outdoor seating area, a customary and normal asset of any home, in the front of the home. In addition, the mid-century modern design of the home aesthetically lends itself to such an arrangement. Neighboring properties are not impaired by the location of the seating area in the front of the home, as the seating area is a great distance from the right of way and the neighboring homes. The wall further enhances the appearance of the patio area, provides the Landers with privacy, and hides the fire pit from view.

Thank you for your kind attention in this matter. Pictures of the improvements are included in this application as Exhibits H-1 through H-5, and the Landers welcome the Board members to view the improvements in person.

Sincerely,

STRAUSS TROY

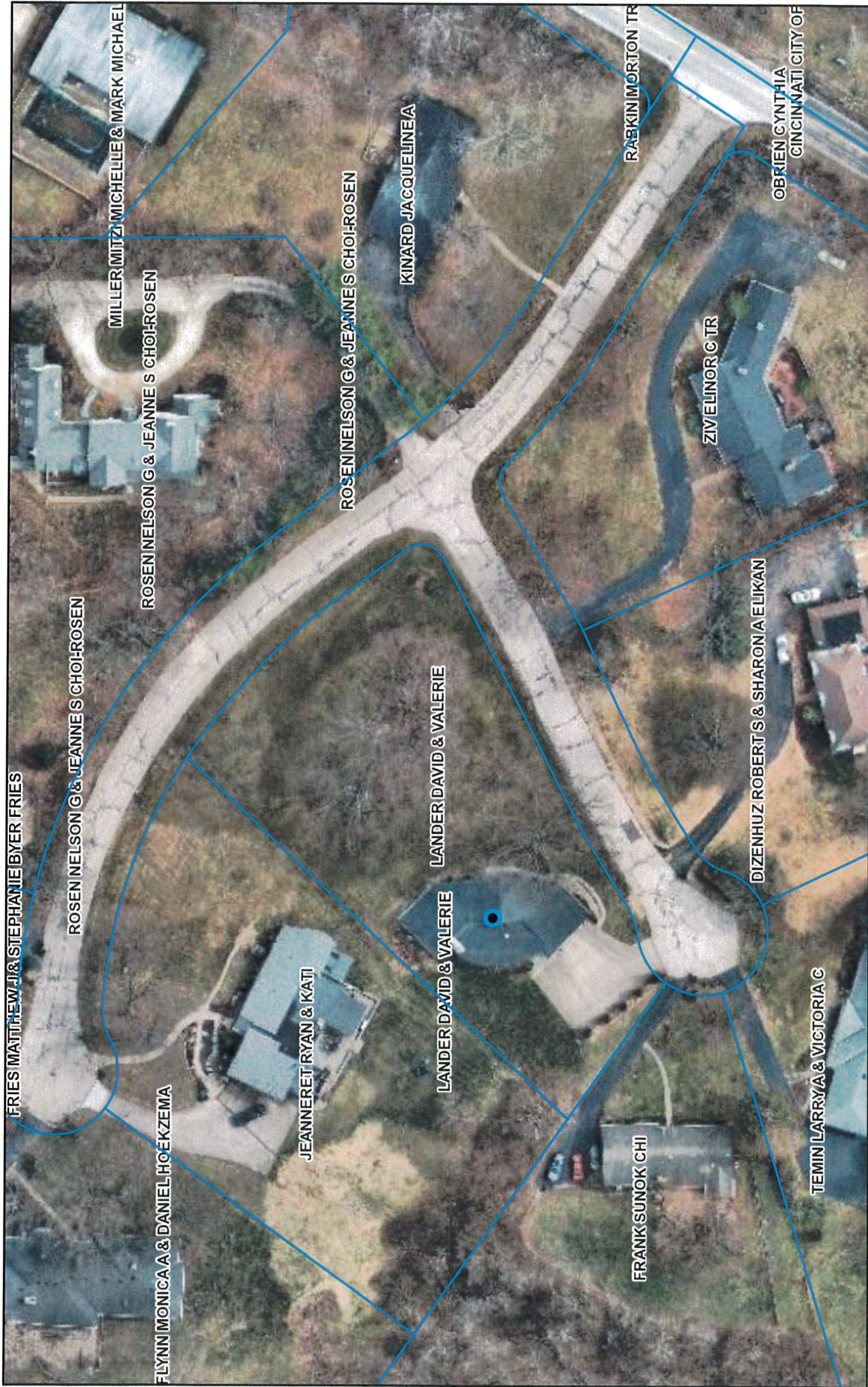


Emily Supinger

cc: Dave and Valerie Lander (via email)
Andrew Kaake (via email arkaake@woodlamping.com)
Jeff Forbes (via email jdforbes@woodlamping.com)

15476027

CAGIS Map



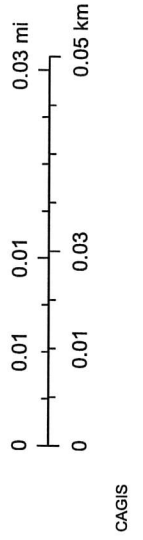
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Hamilton County Political Jurisdictions

Property Boundaries

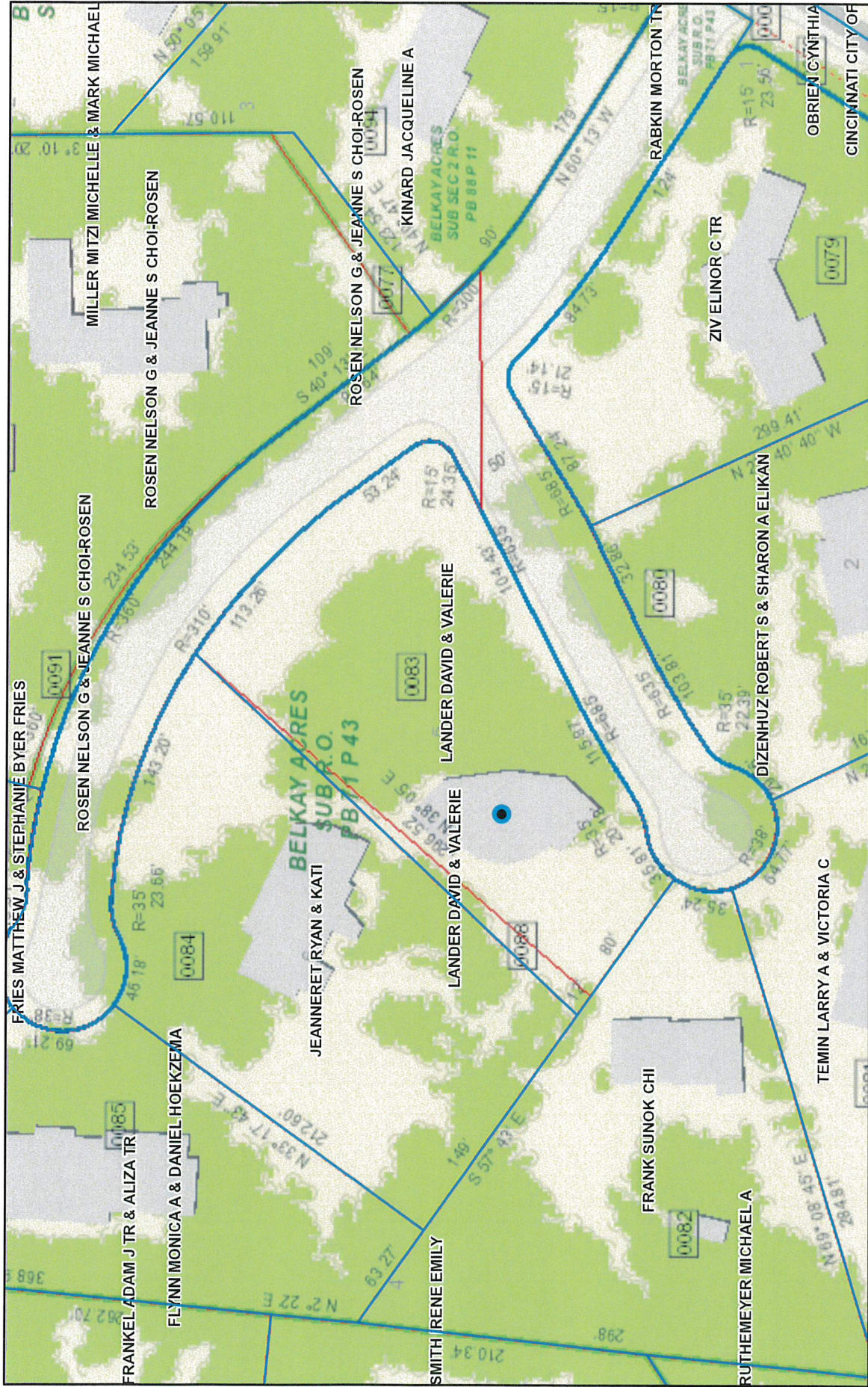
EXHIBIT A

1:938



CAGIS User
CAGIS I

CAGIS Map



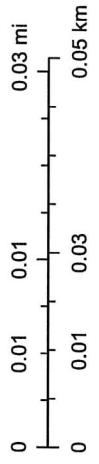
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Hamilton County Political Jurisdictions

Property Boundaries

EXHIBIT B

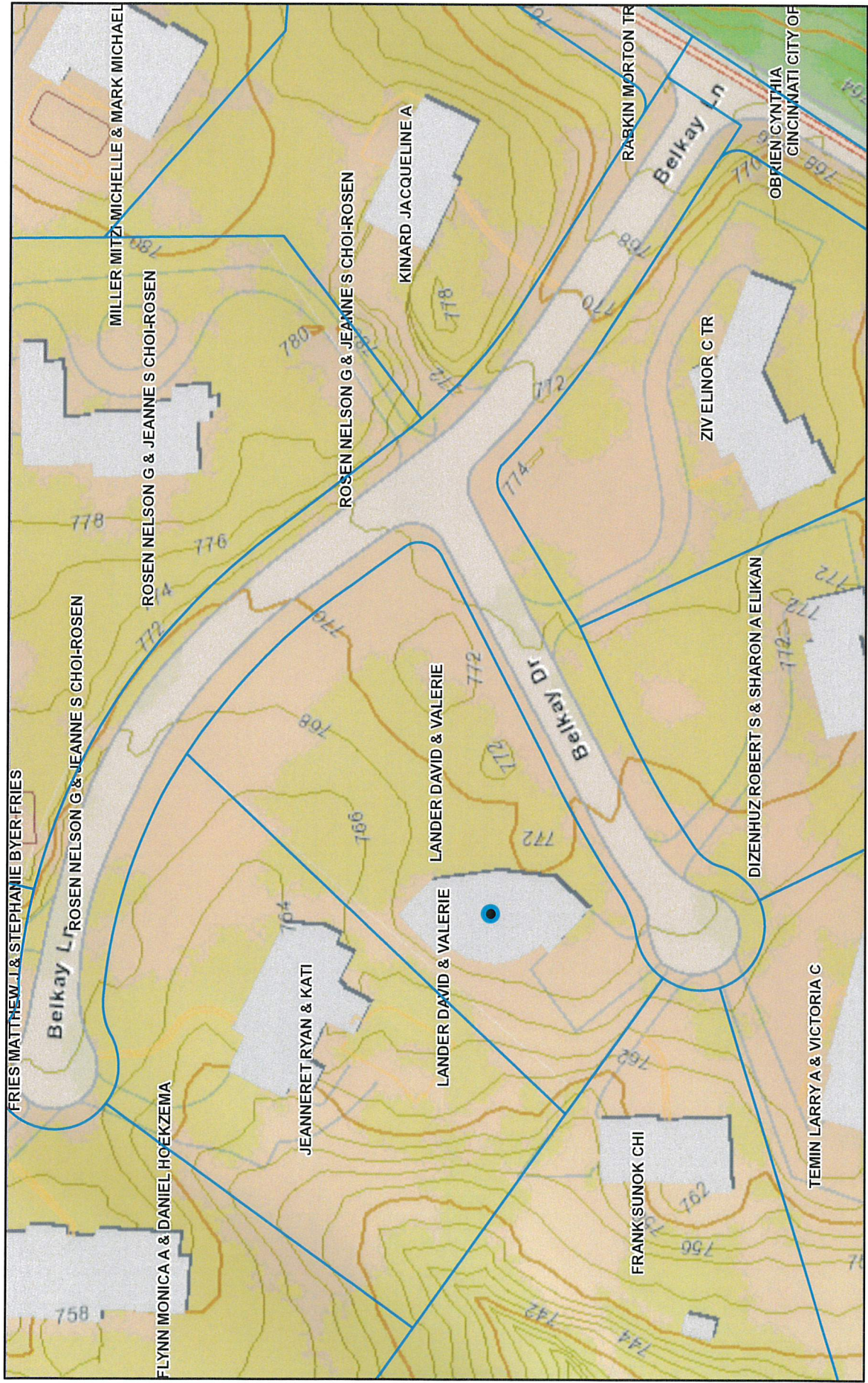
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CAGIS

CAGIS User
CAGIS I

CAGIS Map



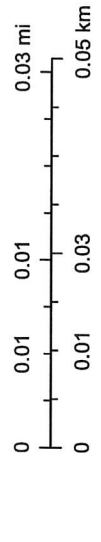
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Hamilton County Political Jurisdictions

Property Boundaries

EXHIBIT C

1:938



CAGIS

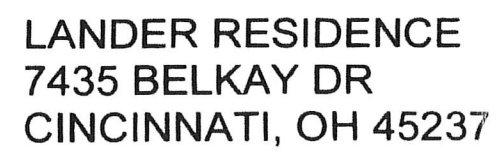
CAGIS User
CAGIS I



EXHIBIT D

EXHIBIT E





APPROVED
AMBERLEY VILLAGE ZONING

8/25/2026 (DATE)  (SIGNATURE)

DRAWING TITLE
 Of Ry: TJN
 Scale: 1" = 10' Scales
 Date: 5/31/2019 Show

Amberley Village

7149 Ridge Road
Amberley Village, OH 45237

513-531-8675 *phone*
513-531-8154 *fax*

amberleyvillage.org

August 21, 2020

Mayor

Thomas C. Muething

Vice Mayor

Natalie Wolf

Council

Richard Bardach

Peg Conway

Ed Hattenbach

Elida Kamine

Ray Warren

Village Manager

Scot F. Lahmer

Police, Fire Chief

Richard L. Wallace

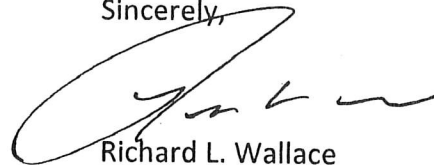
David and Valerie Lander
7435 Belkay Drive
Amberley Village, Ohio 45237

Dear Mr. and Mrs. Lander,

This is to advise you that zoning approval is granted for the replacement of the existing gravel sidewalk and patio with slate pavers in the front of the house located at 7435 Belkay Drive.

In the planning and construction of these improvements, you are to meet all requirements of the Amberley Village Code and the Hamilton County Building Code.

Sincerely,



Richard L. Wallace
Police/Fire Chief

EXHIBIT G



EXHIBIT H-1

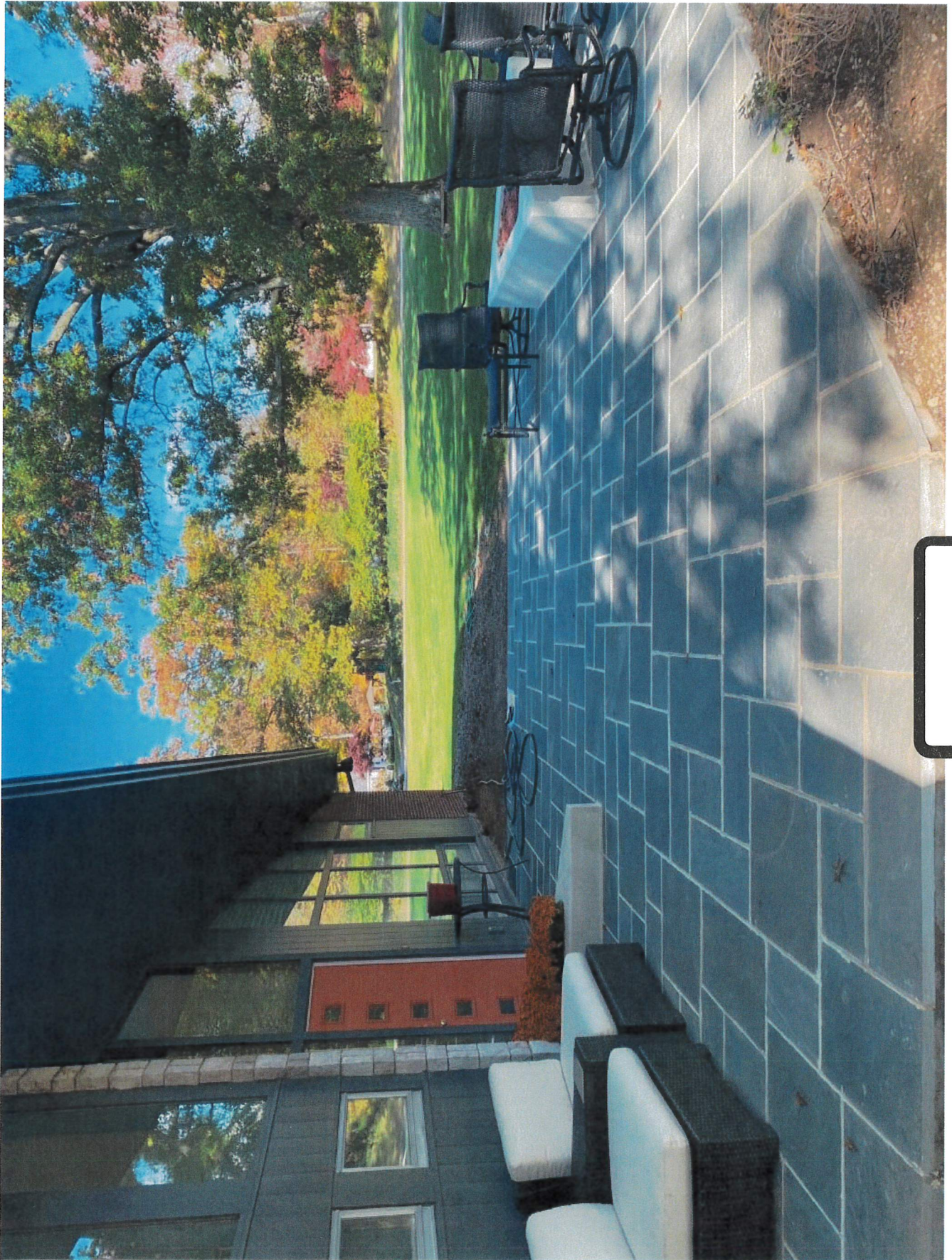


EXHIBIT H-2



EXHIBIT H-3



EXHIBIT H-4



EXHIBIT H-5