



**City of Powell**  
**Board of Zoning Appeals**

Board of Zoning Appeals

Randy Duncan   Bob Hiles   Janice Hitzeman   Jim Hrivnak   Greg Short

APPLICATION FOR VARIANCE

Applicant:    Alan Rossi  
Location:     243 Smokewood Road  
Zoning:       (PR) Planned Residence District  
Request:      Approval of a variance to reduce the required 30' rear setback line to 24',  
                    in order to construct a three-season room.

A public hearing was held before the City of Powell Board of Zoning Appeals on March 12, pursuant to Codified Ordinance 1127.05(a) concerning the variance application of Alan Rossi ("the Applicant") to reduce the required 30' rear setback line to 24', in order to construct a three-season room.

Board Members Randy Duncan, Robert Hiles, Janice Hitzeman and Jim Hrivnak were present, constituting a quorum of the Board. Member Gregory Short was absent. City Clerk Karen J. Mitchell swore in new Board Members Janice Hitzeman and Jim Hrivnak.

Zoning Inspector, Elise Schellin, presented the Staff Report on the request, which recommended approval of the requested variance.

Sean Kocheran, representing the Applicant, testified in support of the variance request.

No one testified in opposition of the request.

Upon consideration of the oral testimony together with documents and exhibits marked and admitted, the Board makes the following findings and decisions:

**I.     FINDINGS OF FACT**

1. Section 1127.06(e) of the Codified Ordinances of the City of Powell sets forth the following standards for variance requests:

- a. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property in question [without the variance];
  - b. Whether the variance is substantial;
  - c. Whether the character of the neighborhood would be adversely affected or whether adjoining properties would suffer an adverse impact as a result of the variance;
  - d. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);
  - e. Whether the property owner purchased the property with knowledge of the zoning restriction;
  - f. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
  - g. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
2. On February 20, 2020, the Applicant, Alan Rossi, submitted an application for a variance concerning the Property, 243 Smokewood Road in the City of Powell.
  3. The Property is within the PR-Planned Residence District.
  4. The Applicant requested a variance to reduce the required 30' rear setback line to 24', in order to construct a three-season room.

## **II. CONCLUSIONS OF LAW**

5. Applying the criteria of section 1127.06(e) of the Codified Ordinances to the application of Alan Rossi, the Board hereby finds and determines the following:
  - (1) **Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property;**
  - (2) **Whether the variance is substantial;**
  - (3) **Whether the character of the neighborhood would be adversely affected or whether adjoining properties would suffer an adverse impact as a result of the variance;**
  - (4) **Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);**  
There is no adverse effects on the area.
  - (5) **Whether the property owner purchased the property with knowledge of the zoning restriction;**  
The property owner/builder knew the requirements.
  - (6) **Whether the property owner's predicament feasibly can be obviated**

through some method other than a variance; and

**(7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.**

The spirit of the zoning code and this requirement is not overly burdened.

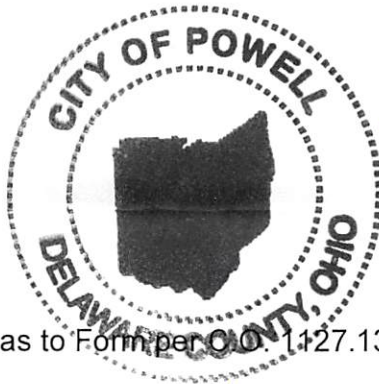
6. The Board conducted its hearing in an open meeting.
7. All who testified were duly sworn in.
8. These proceedings were conducted in accordance with Chapter 1127 of the Powell Codified Ordinances, including all provisions for notice.
9. The application meets each of the standards set for granting variance.

**III. DECISION**

Upon consideration of the testimony and exhibits admitted, by a vote of 4-0, the Board of Zoning Appeals agrees that the variance is not substantial given the amount of work, cost which would be incurred and the inconvenience to the home owner, and therefore the Board **GRANTS** the Applicant's requested variance to reduce the required 30' rear setback line to 24', in order to construct a three-season room.

The City and/or the Applicant are authorized to take any further action consistent with this decision. The Board's decision is appealable as provided by law.

Dated this 28<sup>TH</sup> day of April, 2020.



For the Board of Zoning Appeals:

Randy Duncan, Chairman

Approved as to Form per C.O. 1127.13:

Eugene L. Hollins  
Law Director