

**RESOLUTION NO. 2023-1**

**Case No. VAR 23-01**

**A RESOLUTION APPROVING A LOT SIZE VARIANCE FOR 13 LAUREL AVENUE TO ALLOW THE TRANSFER OF A PORTION OF LAND FROM 13 LAUREL AVENUE TO 17 LAUREL AVENUE**

**WHEREAS:** Tim & Laurie Howland (Applicants) applied for a lot size variance for 13 Laurel Avenue to transfer a portion of land from 13 Laurel Avenue to 17 Laurel Avenue; and

**WHEREAS:** the City provided mailed and published notice of a public hearing to consider the proposed variance as required by law; and

**WHEREAS:** the public hearing to consider the proposed variance was held on February 23, 2023; and

**WHEREAS:** at the hearing, Mr. Howland was sworn in; and

**WHEREAS:** at the hearing, Applicants requested a variance to reduce the lot size of 13 Laurel Avenue from .1951 acres (8,499 square feet) to .1428 acres (6,220 square feet); and

**WHEREAS:** the Milford Board of Zoning Appeals (BZA) considered the application, applying the practical difficulties test outlined in Section 1131.11(D) of the City of Milford Zoning Code; and

**WHEREAS:** after due consideration of all evidence and reports offered at said meeting makes the following findings of fact and conclusions of law.

**NOW THEREFORE,** be it ordained by the Milford Board of Zoning Appeals that these Findings of Fact and Conclusions of Law are hereby adopted:

**FINDINGS OF FACT**

1. The property at 13 Laurel Avenue, Milford, Ohio 45150 is located in the R-3, Single Family Residential District in the City of Milford and subject to the City's Zoning Ordinance.
2. Tim & Laurie Howland own the property.
3. The subject building is a one-story bungalow with a finished attic, 938 square feet, built in 1905.
4. The existing lot size is 8,499 square feet.
5. As specified in section 1147.06 (A) in Milford's Zoning Code, the minimum lot size in the R-3 District is 8,000 square feet.
6. Applicants want to transfer 2,278 square feet of the property at 13 Laurel Avenue to the adjacent property, 17 Laurel Avenue, which is owned by Tim Howland.
7. The proposed new lot size of 13 Laurel Avenue would be 6,220 square feet.

8. The BZA conducted the hearing in accordance with R.C. 2506. Under oath, Mr. Howland testified at the hearing and Ms. Celsor provided additional testimony concerning the application of the Zoning Code.

### CONCLUSIONS OF LAW

1. The BZA is authorized to grant area variances under Section 1131.11 of the Zoning Code.

2. In order to grant an area variance, the BZA must determine doing so will not be contrary to the public interest. Code Section 1131.11(A).

3. Under Section 1131.11(D), the BZA must review each application to determine if it complies with the purpose and intent of the Zoning Code and conclude that the literal enforcement of the Zoning Code will result in a practical difficulty.

4. "Practical difficulty" is governed under ten different factors set forth under Section 1131.11(D). The BZA considered and weighed each factor together in analyzing the application.

1. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district. Examples of such special conditions or circumstances are exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to non-conforming and inharmonious uses, structures or conditions;

*The BZA determines that the South Milford neighborhood was platted prior to the adoption of Milford's Zoning Ordinance. Many lots in South Milford in the same R-3 Single Family Residential District are less than 8,000 square feet, particularly along Mound Street.*

2. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

*The BZA determines that this factor is not applicable.*

3. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;

*The BZA determines that it would be possible to transfer only the fenced portion of property.*

4. 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;

*The BZA determines that there would be no change in the character of the neighborhood.*

5. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, and trash pickup;

*The BZA determines that is factor is not applicable.*

6. Whether the property owner purchased the property with knowledge of the zoning restrictions;

*The BZA determines that the property was purchased to operate as a long-term rental.*

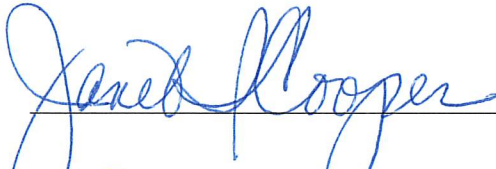

7. Whether special conditions or circumstances exist as a result of actions of the owner;  
*The BZA determines that the owner fenced a portion of the land belonging to the adjacent property.*
8. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;  
*The BZA determines that this factor is unknown.*
9. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance;  
*The BZA determines that the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.*
10. Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.  
*The BZA determines that the granting of the variance would not confer any special privilege that is denied by the applicable lot size provision in the R-3 zoning district.*

Having made the above Findings of Fact and Conclusions of Law, the BZA unanimously by a vote of 5-0 approves Applicants' area variance request.

IT IS SO ORDERED.

CITY OF MILFORD BOARD OF ZONING APPEALS

DATE: 3/23/2023

\_\_\_\_\_  
 \_\_\_\_\_

