

# Application for an Appeal to the Board of Zoning Appeals

## Hamilton Township Board of Zoning Appeals

**Mr. David Biggs**

**7:00 PM, September 24, 2015**

### General Information

**Applicant:** Mr. David Biggs  
77 Adams Road  
Hamilton Twp., Ohio 45140

**Property Location:** 15 Adams Road  
Hamilton Twp., Ohio 45140

**Contiguous Owners:** See application.

**Existing Zoning:** R-1

**Existing Land Use:** SFD

**Parcel Information:** Size 1.9991 acres  
Land Use SFD

**Surrounding Land Use:** North: R-1 Single Family Residence Zone  
East: R-1 Single Family Residence Zone  
South: R-1 Single Family Residence Zone  
West: R-1 Single Family Residence Zone

**Requested Action:** The applicant has requested a variance from Section 6.1.2.B to reduce the minimum lot size of a non-conforming lot by .25 acres.

**History:** Mr. Biggs contacted staff when he realized a possible issue with selling his two adjoining lots. The Driveway of 77 Adams Road is on the property line for 15 Adams Road. After much discussion he submitted the application for the variance. The application for variance was received in the office on August 19, 2015. The hearing date was then set by the Board for September 24, 2015.

**Applicable Regulations:** In Section 6.1.2.B, The Hamilton Township Zoning Code, states,

(1) No existing lot of record shall be reduced in area so that lot area, lot width, yards, or other requirements of this code are not maintained, except where such reduction has been brought about by the expansion or acquiring of public rights-of-way or is approved through a PUD District.

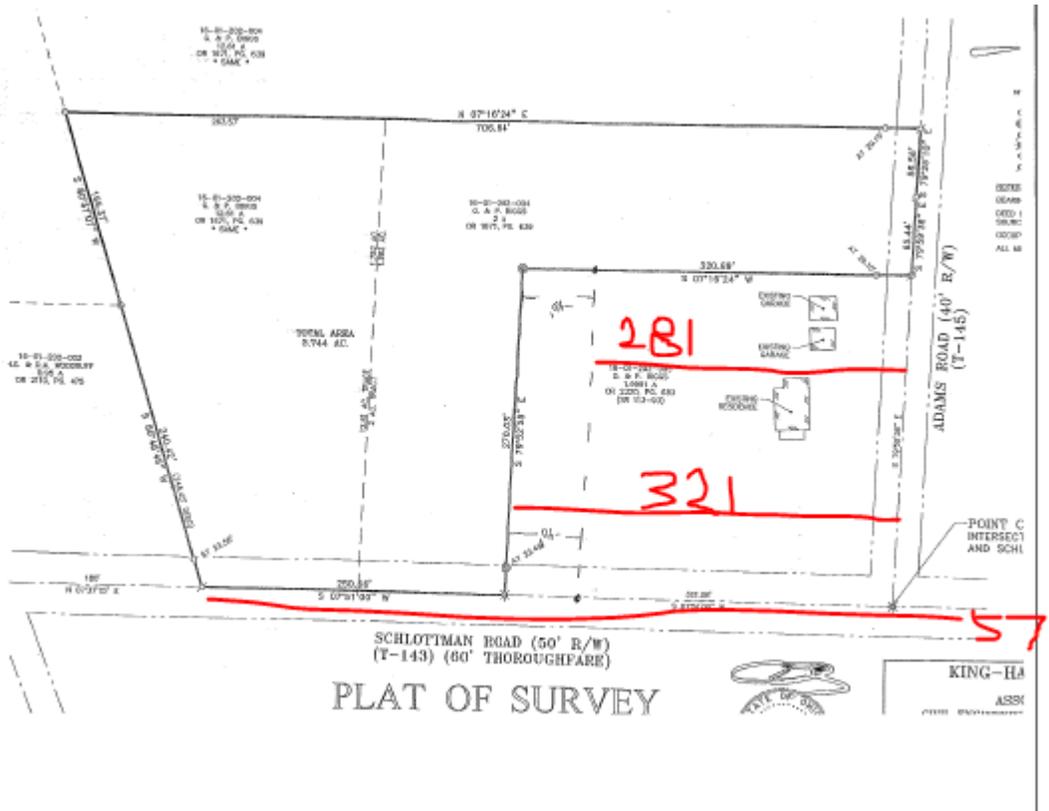
(3) In the event that the uses and structures cannot comply in such circumstances, the property owner shall seek relief from the BZA, as provided for in Section 3.8 Appeals, Variances, and Conditional Uses.

**Definition:** Staff cannot approve a reduction in an already non-conforming lot per Hamilton Township Zoning Code.

**Similar Cases:** No similar cases were found going back to 2005.

**Site Summary:**

This property is located on the corner of Adams Road and Schlottman Road. The lots are approximately 571 feet in width along Schlottman Road and 270 feet in depth for the corner lot affected by the request. As shown the corner lot will be reduced from 321 feet to 281 feet in width. Therefore making the 1.991acre lot 1.749if the request is approved.



**Hardship Statement:**

“I, David Biggs own both properties, looking for forty (40) feet of separation on property line of 77 Adams. Driveway to add property to 77 Adams and deduct from 15 Adams to prevent any property line problems for the future if one or both properties are sold.”



**Analysis:**

**Ohio Revised Code -519.14 Powers of township board of zoning appeals.**

The township board of zoning appeals may:

(A) Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of sections [519.02](#) to [519.25](#) of the Revised Code, or of any resolution adopted pursuant thereto;

(B) Authorize, upon appeal, in specific cases, such variance from the terms of the zoning resolution as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the resolution will result in unnecessary hardship, and so that the spirit of the resolution shall be observed and substantial justice done;

Finally, The Ohio Supreme Court granted townships and cities the authority to review area variances in *Kisil v. City of Sandusky*, where a property owner requested permission to use the property in a manner not permitted by the zoning code.

The court concluded that area variances (variances dealing with height, acreage, frontage and setbacks) involved “practical difficulties” by which a property owner, unless granted a variance, could not use a property for the purpose, which it was zoned.

**Recommendation:**

Staff recommends approval of the variance request. The home at 15 Adams Road was built in 1941. It is similar to the many houses located across Adams Road on Schlottman. These lots are all 100 feet wide by 220 feet deep. The will appear to be similar to the area and provide a more marketable property for 77 Adams Road.

