

# Application for an Appeal to the Board of Zoning Appeals

## Hamilton Township Board of Zoning Appeals

**Mr. & Mrs. Richard Nixon, 7:00 PM, October 22, 2009**

### General Information

**Applicant:** Richard & Diana Nixon  
677 E. Foster Maineville Road  
Hamilton Twp. Ohio 45039

**Owner:** SAME

**Property Location:** 677 E. Foster Maineville Road  
Hamilton Twp. Ohio 45039  
Parcel # 17344530010

**Contiguous Owners:** See application.

**Existing Zoning:** R-1                      Rural Residence Zone

**Existing Land Use:** SFD

**Parcel Information:**

Size	1.0 acres
Frontage	234 Feet
Land Use	SFD

**Surrounding Land Use:**

North:	R-1	Single Family Residence
East:	R-1	Single Family Residence
South:	R-1	Single Family Residence
West:	R-1	Single Family Residence

**Requested Action:** The applicant requests permission per Section 19.04 to rebuild a non-conforming dwelling recently destroyed by fire.

**History:** In March 2007, the original home was destroyed by fire. On September 21, 2009 the owners filed an application for a new single family dwelling which was denied due to non-conforming lot in an R-1 zone. On that day, staff spoke with the applicant and they decided to take the application for the hearing. Shortly after, the application was returned and the date was set for October 22, 2009 for the BZA hearing.

**Hardship Statement:** Applicant states the hardship as; "There was an existing house and approved septic system. The lot should be grandfathered because it was there before zoning came into effect. Previous house was constructed in the early 1800's."

**Applicable Regulations:** In Section 19.04 & 26.01.C, The Hamilton Township Zoning Code, states,

*19.04 When a building, the use of which does not conform to the provisions of this Code, is damaged by fire, explosion, Act of God, or a public enemy it may be restored. The relocation of such use may be authorized by the Board of Zoning Appeals in the manner provided in Chapter 26.*

*26.01.C. Non-Conforming Uses: The Board shall have the power to authorize the completion, restoration, reconstruction, in whole or in part, extension, or substitution of nonconforming uses; taking into consideration the nature of such uses in relationship to the character of the adjacent uses, lot size, setback lines, traffic conditions, terrain, and all other factors which, in the opinion of the Board are pertinent to such completion, restoration, reconstruction, extension, or substitution.*

**Similar Cases:**

**Mainstream Homes 2/9/2009 -772 E. Foster Maineville**

Applicant applied for and was granted a variance for a new dwelling to be constructed but without a front porch and 3 evergreens planted for screening in the front yard.

**Omer & Joyce Barrett 5/3/2007 -856 Marion Ave.**

Applicant applied for a variance due to a staking error for a front yard setback of 40 feet to 35 feet to allow an existing front porch and handicapped ramp. Variance request was approved.

**Vernon & Rose Scott 5/3/2007 -978 Marion Ave.**

Applicant applied for a variance to allow construction of an 8 x 17 front porch reducing the front yard from 50 feet to 42 feet. Variance was approved.

**Inverness Group 2004 –Village on the Green**

Applicant applied for and was granted a variance to reduce the front yard setback from 40 to 35 feet due to a staking error.

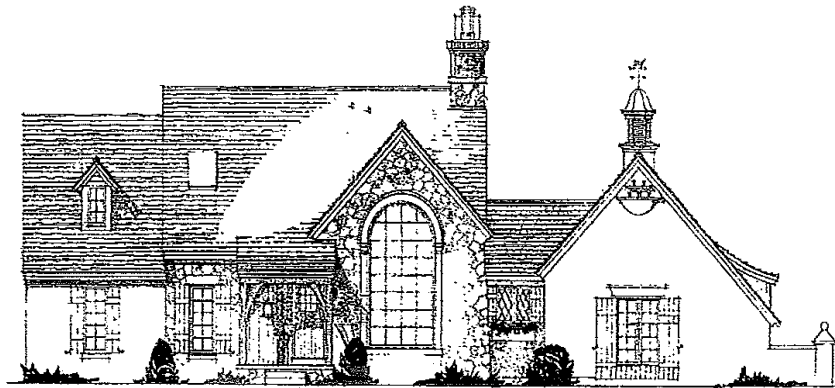
**Daniels Homes 2002 –Village on the Green**

Applicant applied for and was granted a variance to allow the reduction in the front yard setback requirement in order to keep proposed houses away from mature tree-lines and a ravine.

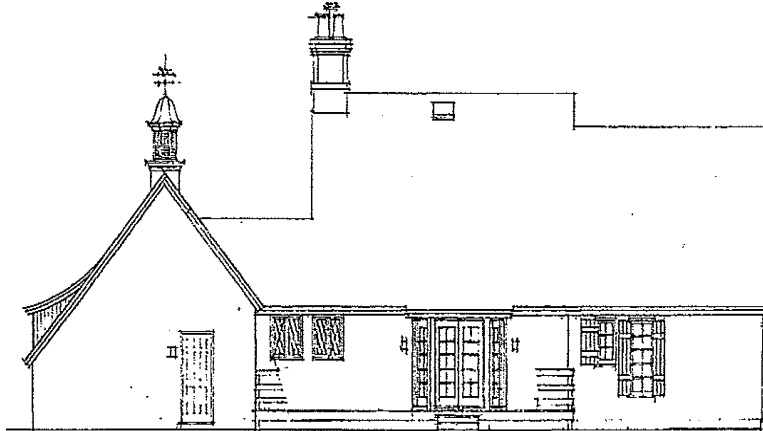


**Site Summary:**

If headed west on Foster Maineville from the Village of Maineville the property is on the right. The entrance of the drive slopes upward and levels off at the building site, as shown in the map above. The proposed dwelling will be 2-story at approximately 1900 square feet as shown in the sketch below. The plans as submitted have two pole barns located in each far corner of the lot, with the minimum five feet from the property line. These buildings have no agriculture use, no animals, no living quarters or no business use. The buildings will be used solely for personal storage.



**Front Elevation**



Rear Elevation

**Analysis:**

Upon review of this case and visiting the property, Staff feels the proposed dwelling is compatible with the surrounding homes in the neighborhood. The new dwelling would be esthetically pleasing and would have no detrimental effects on the area.

Warren County Water and Sewer have provided a letter included in the packet that states the lot is acceptable for "development with a private sewage system."

The location of the residence will meet all the required setbacks including the front yard setback from Foster Maineville Road.

**Recommendation:**

Staff recommends approval of the request with no modifications.