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Troy, Illinois 62294

2025R09987
STATE OF ILLINOIS
MADISON COUNTY
04/15/2025 11:07 AM
LINDA A. ANDREAS
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#50 CTY

Ordinance No. 2025 – 12

**An Ordinance to Adopt the Zoning Hearing Officer’s Decision
Denying Variance 2025-01ZHO – 1555 Troy O’Fallon Road**

ADOPTED BY THE CITY COUNCIL
OF THE CITY OF TROY, ILLINOIS

THIS THIRD DAY OF FEBRUARY, 2025

WHEREAS, attached is the City Zoning Hearing Officer’s Decision on Variance 2025-01ZHO (Exhibit “A”); and

WHEREAS, pursuant to Section 154.160 of the Code of Ordinances, the City Council must act on the Decision (i.e. adopt, deny, or refer back to the Zoning Hearing Officer); and

WHEREAS, after reviewing and considering the Decision of the Zoning Hearing Officer, the City Council hereby adopts the Decision in its entirety (denying the variance sought by Nicholas and Jamie Klenke at 1555 Troy O’Fallon Road).

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Troy, Madison County, Illinois as follows:

Section 1: That the City Council hereby determines that the preambles hereto are true and correct and are incorporated herein by reference as if fully set forth herein.

Section 2: That the City Council hereby adopts the Decision in its entirety (denying the variance sought by Nicholas and Jamie Klenke at 1555 Troy O'Fallon Road).

Section 3: That if any section or provision of this Ordinance is declared invalid for any reason, such invalidity shall not affect or impair any of the remaining sections or provisions of this Ordinance which can be given effect without the invalid section or provision, and to this end, the sections and provisions of this Ordinance are declared to be severable.

Section 4: This Ordinance shall be effective upon its passage, signing, and publication as required by law.

PASSED by the City Council of the City of Troy, Madison County, Illinois, approved by the Mayor, and deposited in the office of the City Clerk this third day of February, 2025.

Aldermen:

Dawson

Flint

Hellrung

Henderson

Italiano

Knoll

Manley ~~ABSENT~~

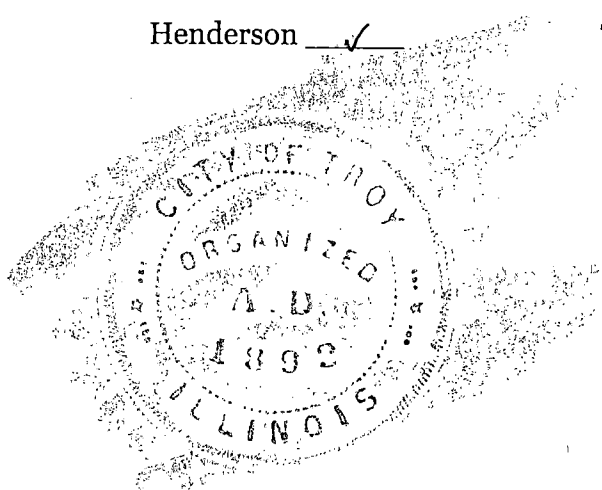
Turner

Total:

7 Ayes

0 Nays

0 Abstains



APPROVED:

A handwritten signature in black ink, appearing to read 'David Nonn', written over a horizontal line.

David Nonn, Mayor,

ATTEST:

A handwritten signature in black ink, appearing to read 'Kimberly Thomas', written over a horizontal line.

Kimberly Thomas, City Clerk

City of Troy, Illinois
Hearing Officer Findings of Fact & Decision
1555 Troy O'Fallon Rd
PPIN: 09-1-22-16-02-201-007

2025-01ZHO

On November 25, 2024, Nicholas and Jamie Klenke (hereinafter "Applicants") filed a Zoning Variance Application (hereinafter "Application") with the City's Building & Zoning Department seeking a variance on property located at 1555 Troy O'Fallon Road which is owned by the Applicants. The variance sought by Applicants is to allow the construction of an addition to the accessory building, which would exceed the allowable combined accessory building square footage as well as not meet the lot set back requirements.

On December 30, 2024, pursuant to proper statutory notice, the City notified all property owners within two-hundred and fifty feet (250') of the subject property of the public hearing on the variance to be held on Tuesday, January 14, 2024, at 1:00 p.m. at Troy Municipal Building.

On December 20, 2024, pursuant to proper statutory notice, a Notice of Public Hearing was published in the Times Tribune of the public hearing on the variance to be held on Tuesday, January 14, 2024, at 1:00 p.m. at Troy Municipal Building.

Pursuant to the forgoing statutory notice, the undersigned conducted the public hearing on the Application on Tuesday, January 14, 2024, at 1:00 p.m. at Troy City Hall. Nicholas Klenke, presented sworn testimony in support of the Application on behalf of Applicant. The following evidence was admitted into evidence: 1) the Notice of Public Hearing; and 2) the Application. No objections were made to any of the testimony or exhibits, which were admitted by the undersigned, and are incorporated by reference herein. Testimony was heard from the City's Building and Zoning Administrative Coordinator, Linda Taake, as well as the City's Building Inspector, Todd Kapp. Kyle Nailor who lives near the subject property was the only member of the public present at the public hearing and requested additional information regarding the possible drainage issues from the proposed structure. The undersigned was also provided emails from two property owners near the subject property requesting additional information but said owners did not attend the hearing.

The law is well settled that to obtain a variance, evidence is required such that 1) the property in question cannot yield a reasonable return if to be permitted to be used only under the conditions allowed by the regulations in that zone; 2) the plight of the owner is due to unique circumstances; and 3) the variance, if granted, will not alter the essential character of the locality. See e.g. Ziman v. Village of Glencoe, 132 Ill.App.2d 399 (1st Dist. 1971)(See also City of Troy Code Section 154.158 – Variances).

Based on the Application and the evidence submitted by Applicant at the public hearing in this matter, the following findings of fact are hereby made:

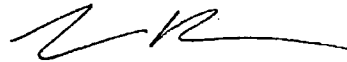
- 1) Notice of public hearing on the Zoning Variance Application at issue was given to all required parties pursuant to 65 ILCS 5/11-13-6 and 65 ILCS 5/11-13-7.

- 2) The public hearing was held on Tuesday, January 14, 2024, at 1:00 p.m. at Troy Municipal Building and conducted by the undersigned.
- 3) Applicant is seeking a variance to allow the construction of a second accessory building that would exceed the allowable maximum accessory building square footage along with not meeting the set back requirements. The proposed building would be approximately 1,280 square feet.
- 4) Applicant offered the sworn testimony of Nicholas Klenke. Mr. Klenke testified that he desired to build a second accessory structure that could be finished and climate controlled. The proposed additional building would allow Applicants to have space for hobbies as well as a play space for his children. Mr. Klenke further testified that a 3,000 square foot accessory building already existed on the property but that same was older and used to store his lawnmower and trailers. Mr. Klenke testified that said building could not easily be finished.
- 5) The City offered the testimony of Linda Taake and Todd Kapp. Ms. Taake testified that the subject property was located within a R-1 Zoning District. Both identified concerns related to the rationale and purpose of the requirements related to accessory building size and specifically that it was recently codified to expressly limit the size of accessory buildings for residential properties with lot sizes in excess of 2.0 acres (which the subject property is 2.73 acres).
- 6) The undersigned takes judicial notice of the City of Troy Zoning Code and finds it to be presumptively valid under Illinois law. That at no time did Applicants submit any testimony, evidence and/or argument that the Code, and/or the specific provisions at issue herein, were and/or are in any way invalid.
- 7) The undersigned notes that City Zoning Code Section 154.031: Accessory Uses provides that for residential lots exceeding two acres that the combined square footage not exceed 2,500 sq.ft. [Subsection (B)(1)] as well as provides that the combined square footage of all accessory structures shall not exceed the square footage of the principal structure [Subsection (B)(2)]. The undersigned further notes that Subsection (B)(7) requires that for residential lots exceeding two acres that any accessory structure shall be set back a minimum of 20 feet from any property line.
- 8) The undersigned further notes that the proposed additional building would be in addition to an already existing structure that already exceeds the limits contained in the Code but that said structure predates said Code provisions.
- 9) The undersigned finds that precluding the Applicant from building the additional accessory building would not unreasonably limit the reasonable return on the property in question as the existing accessory building could be remodeled or rebuilt or that the principal building could be expanded. The undersigned further finds that there are not any unique circumstances of this property or the existing accessory building. The undersigned further finds that the variance, if granted, could alter the essential character

of the locality as the additional building would greatly exceed the maximum allowed square footage by almost double when combined with the existing structure as it relates to the size of the principal building especially with the proposed building having less than half of the required set back from the rear lot line.

Accordingly, after considering all the testimony and evidence, and after assessing the credibility of the witnesses, the undersigned finds that the **Application for Zoning Variance sought herein is hereby DENIED.**

ENTERED THIS 17th day of January, 2025



Luke A. Behme, Esq.
City of Troy Hearing Officer

END OF DOCUMENT