



Agenda for the Board of Building and Zoning Appeals
Regular Meeting- Huron City Hall – Council Chambers
April 15, 2024 5:30p.m.

- I. Call to Order**
- II. Roll Call**
- III. Adoption of the Minutes: (2-12-24 & 3-11-24)**
- IV. Verification of Notifications**
- V. Swearing in of those testifying before the Board**
*When testifying before the board, please step to the podium, **sign in**, and state your name and address for the record.
- VI. New Business**
PPN45-00346.000 24 Dayton Ave Area Variances - variance to the rear yard requirement- allowing an accessory structure (spa/lap pool) in a side yard, a side yard setback variance, a variance to the required distance to a primary structure.
- VII. Other Matters**
Review/discussion of Draft BZA Rules
- VIII. Adjournment**



TO: Chairman Kath and Board Members
FROM: Erik Engle, Planning Director
RE: 24 Dayton Ave
DATE: April 15, 2024

Current Zoning District: R-1 **Parcel No.:** 45-00346.000

Existing Land Use: Single Family Residential

Property Size: 0.08494 acres +/-, Frontage 50', Depth 74'

Traffic Considerations: N/A

Project Description- Area Variance

Applicant is proposing the addition of an 8' x 19' spa/lap pool in the side yard of the property. As proposed, the spa/lap pool would be in the side yard of the property, 3'-6" from both the side property line and the home, and 8' from the rear property line.

Since the proposed variance falls under the "area variance" category, the following criteria should be examined to establish if there are practical difficulties in the use of the property (The Seven (7) Way Test-Duncan vs The Village of Middlefield):

- 1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.*
- 2. Whether the variance is substantial.*
- 3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment because of the variance.*
- 4. Whether the variance would adversely affect the delivery of governmental services (for example, water, sewer, garbage).*
- 5. Whether the property owner purchased the property with knowledge of the zoning restriction or if the need for the variance is "self-imposed." (The owner created the situation)*
- 6. Whether the property owner's predicament feasibly can be obviated through some method other than a variance.*
- 7. Whether the spirit and intent behind the zoning requirement would be observed substantial justice done by granting the variance.*

Staff Analysis:

The home is located within the R-1 Zoning District, as you may recall, the applicant received variances for the demo & rebuild of the original home; improving some of the setbacks with the rebuild footprint. The home has now been built and the owner would like to add a spa/lap pool to the property but due to the limited space in the rear yard, he is proposing to have it installed within

the side yard. The spa/lap pool would be 8' x 19', there is no decking proposed. Note: The renderings show decking, pavers, landscape, fencing, etc. The only element relevant to the application is the spa pool structure itself.

Pools are considered "Accessory Structures" within the code and as such are required to be in the rear yard, at least 5' from both the rear and side property lines and at least 6' from other structures, with a rear yard build out cap of 35%.

Applicable Codes:

1123.01 - R-1 One Family Residence District (c) Accessory Uses

(4) Swimming pools, exclusively for the use of residents and their guests provided that such pool or premises or part thereof whereon such pool is located shall be completely enclosed by a protective fence, wall, or other enclosure, not less than four feet in height.

1121.06 - Accessory Uses in R Districts.

(g) An accessory building may be erected detached from the principal building or it may be erected as an integral part of the principal building. Except as provided in Section 1137.03, no detached accessory building shall be erected in any required yard or court except a rear yard, and shall not occupy more than thirty-five percent (35%) of the rear yard. Detached accessory buildings shall be distant at least six feet from any dwelling situated on the same lot, unless an integral part thereof, at least six feet from any other accessory building and at least five feet from all lot lines of adjoining lots which are within any R District.

As proposed, the spa pool would require the following area variances to Section 1121.06 (g):

- 1) A Variance to the rear yard requirement, allowing the placement of the spa/lap pool in the side yard.
- 2) A side yard setback variance of 1'-6" to the property line. (3'-6" proposed, 5' required)
- 3) A setback variance of 2'-6" to the house. (3'-6" proposed, 6' required)

Motion Examples

[PLEASE STATE WHY YOU ARE APPROVING OR DENYING FOR THE RECORD, USING THE SEVEN WAY TEST CRITERIA]

Motion to **APPROVE** the variance request:

I make the motion to **approve** the request for the following area variances as follows:

1. A variance to the rear yard requirement, allowing the placement of the spa/lap pool in the side yard.
2. A side yard setback variance of 1'-6" to the property line.
3. A setback variance of 2'-6" to the primary structure.

As the testimony presented in this public hearing has shown that..... ***(Choose one or more appropriate finding(s) and specific items based on the seven-way test)***

- ***The property in question would not yield a reasonable return or would not have any beneficial use without the variance.***

- *The variance is not substantial.*
- *The essential character of the neighborhood would not be substantially altered and/or the adjoining properties would not suffer a substantial detriment because of the variance.*
- *The variance would not adversely affect the delivery of governmental services (for example, water, sewer, garbage).*
- *The property owner purchased the property without the knowledge of the zoning restriction and/or the need for the variance is not "self-imposed." (The owner did not create the situation)*
- *The property owner's predicament feasibly cannot be obviated through some method other than a variance.*
- *The spirit and intent behind the zoning requirement would be observed, substantial justice done by granting the variance.*

OR

Motion to **DENY** the variance request:

I make the motion to **deny** the request for area variances at 24 Dayton Ave for a variance to the rear yard requirement for accessory structures allowing for a spa/lap pool to be placed in the side yard, a side yard setback variance of 1'-6" to the side property line, and a 2'-6" setback variance to the primary structure submitted, as sufficient testimony has **not** been presented in this public hearing that the requested variance meets the criteria set forth in the seven-way test as the....

(Choose one or more appropriate finding(s) and specific items based on the seven-way test)

- *The property in question would yield a reasonable return and/or would have beneficial use without the variance.*
- *The variance is substantial.*
- *The essential character of the neighborhood would be substantially altered and/or the adjoining properties would suffer a substantial detriment because of the variance.*
- *The variance would adversely affect the delivery of governmental services (for example, water, sewer, garbage).*
- *The property owner purchased the property with the knowledge of the zoning restriction and/or the need for the variance is "self-imposed." (The owner created the situation)*
- *The property owner's predicament feasibly cannot be obviated through some method other than a variance.*
- *The spirit and intent behind the zoning requirement would not be observed, substantial justice would not be done by granting the variance.*



CITY OF HURON
Planning & Zoning Department
417 MAIN STREET, HURON, OH 44839

THE BOARD OF BUILDING AND ZONING APPEALS APPLICATION
Completion of all applicable sections required. Incomplete applications will not be accepted.

We, the undersigned represent that we are the title owners of the following described property situated in the City of Huron, OH:

Applicant's Name Douglas A. Masterson
Property Owners' Name: Douglas A. Masterson
Address: 24 Dayton Ave
City, State, Zip: Huron, OH 44839
Phone Number (440) 541-4328
Email: cligner@aol.com

Location of Project:

Lot/Parcel #: _____ Zoning District: _____

Address: 24 Dayton Ave Huron, OH 44839.

Year purchased: 1996 Year the existing structure was constructed: 1960

Single Story Home: ☒ Two Story Home: _____

Provide a brief summary of your proposed project:

Swim spa side yard

Type:

- Area Variance: Subdivision Regulations _____ Parking _____ Setbacks ☒
Height _____ Size _____ Flood Plain _____ Sign Regulations _____
- Use Variance: _____
- Conditionally Permitted Use: _____

We request a Hearing before the Board of Building and Zoning Appeals of the City of Huron, Ohio, on the following question: (State the specific details of the variance being requested. Example: Area variance- 1' side setback variance is required for the proposed addition; Use Variance- State the type of use; or Conditionally Permitted Use approval)

Set Back Variance to be 3 1/2 feet
on property line and 3 1/2 feet of
House

Conditionally Permitted Use Approval

The following uses shall be permitted only if authorized by the Board of Building & Zoning Appeals in accordance with the provisions of Section 1139.02. State the type of use being proposed and the applicable code section:

Code Section: _____

(skip to Page 7, Sign and Date Application)

Use and/or Area Variance Questionnaire

1. The property in question [will/will not] yield a reasonable return and there [can/cannot] be a beneficial use of the property without the variance because:

It complies with the project

2. The variance is [substantial/insubstantial] because:

It complies with the project

3. The essential character of the neighborhood [would/would not] be substantially altered or adjoining properties [would/would not] suffer a substantial detriment as a result of the variance because:

It complies with the project

4. The variance [would/would not] adversely affect the delivery of governmental services, (e.g., water, sewer, garbage)

5. The applicant purchased the property [with/without] knowledge of the zoning restriction. Year the property was purchased: 96. Year the structure(s) was constructed: 2004.

6. The applicant's predicament feasibly [~~can~~cannot] be resolved through some method other than a variance.
7. The spirit and intent behind the zoning requirement [~~would~~would not] be observed and substantial justice [~~done~~not done] by granting the variance because

8. We believe the request should be granted due to the following hardship which is created by the property: (explain the hardship that exists ***pursuant to the code***)

I hereby certify that I am the owner of record of the named property or that the proposed work is authorized by the owner of record and/or I have been authorized to make this application as an authorized agent and agree to conform to all applicable laws, regulations, and ordinances of the city. I certify all information contained within this application and supplemental documents are true and accurate to the best of my knowledge and belief.

In addition, I, the undersigned responsible party (owner, occupant, tenant, or agent for the property owner) of the property described herein, do hereby consent to entry upon said property, at a reasonable time and to the extent necessary, by the City of Huron and its officers, employees, and/or agents for the purpose of inspecting said property for compliance with the City's Zoning and/or Building Codes. I further certify that I have authority to grant access to said property.

Date: 2/7/24 Signed Applicant [Signature]

Date: 2/7/24 Signed Property Owner [Signature]

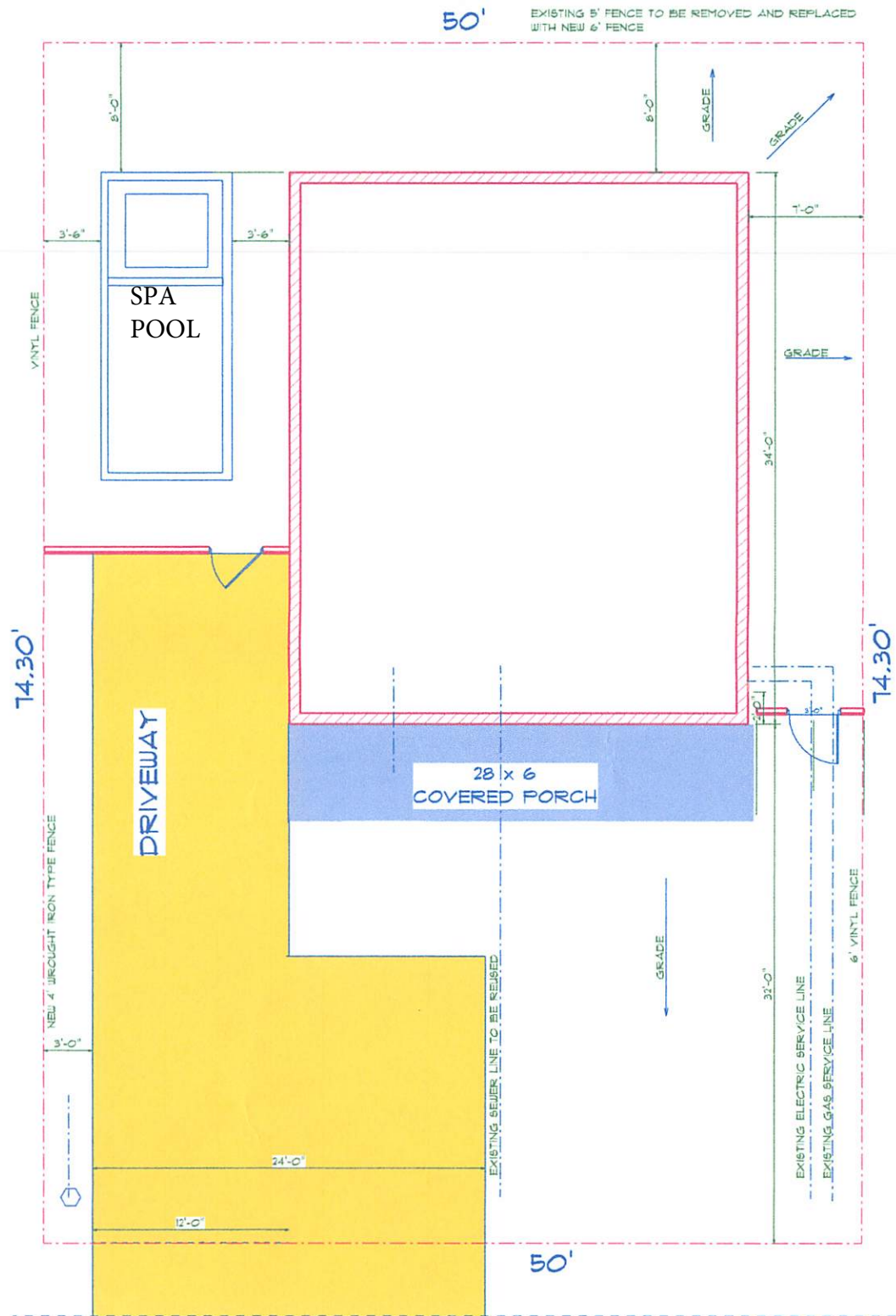
(REQUIRED)

ZONING DEPT. USE ONLY

Date received: 3/2/24 Application Complete ✓

\$150 filing fee receipted: ✓

Comments _____ Hearing Date 4-15-24





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Plant Legend

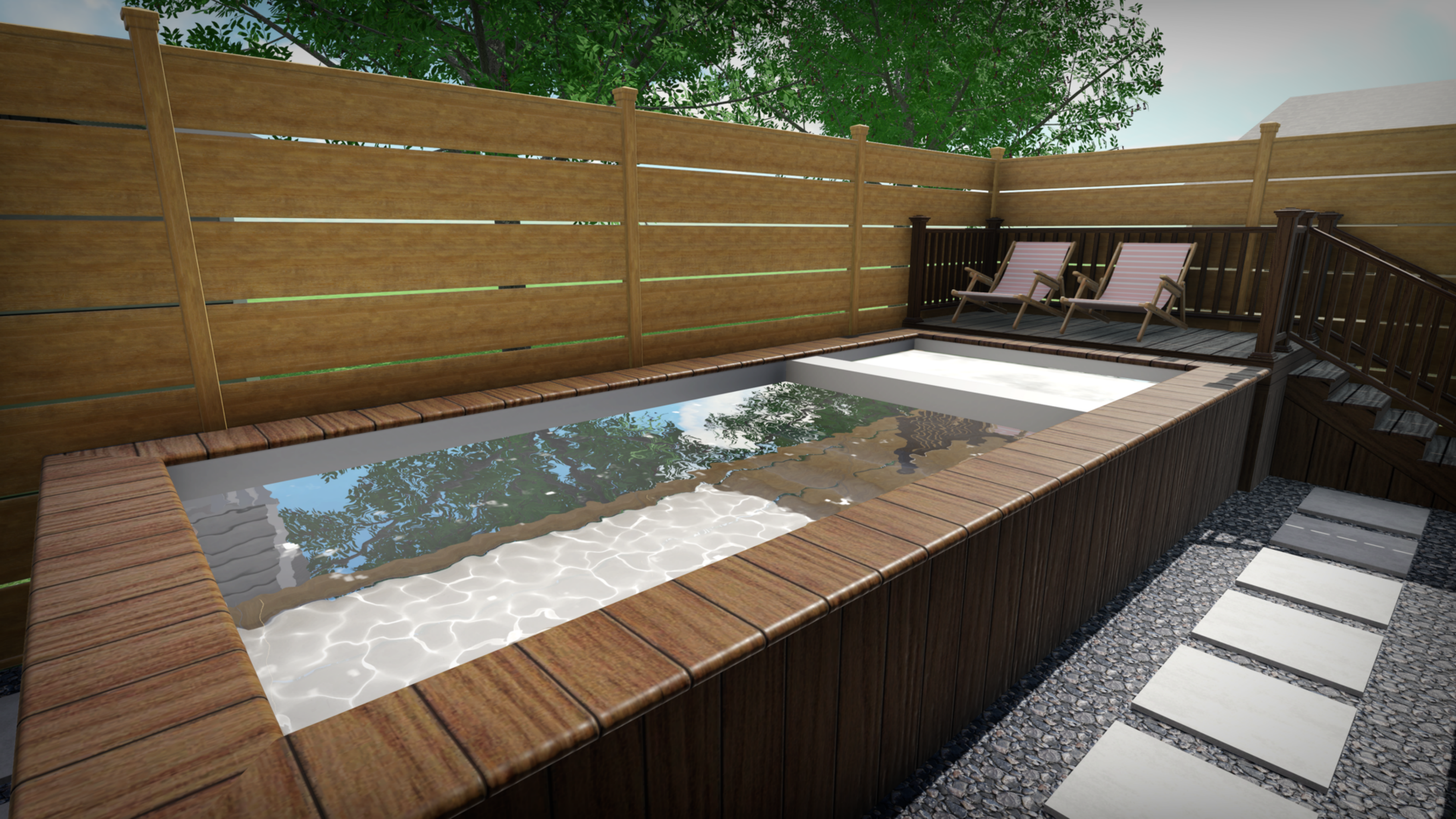
Symbol	Qty	Common	Botanical	Size
	11	All Summer Beauty Hydrangea	Hydrangea macrophylla 'All Summer Beauty'	3 gal.
	2	Cool Splash Dwarf Bush Honeysuckle	Diervilla sessilifolia 'Cool Splash	5 gal.
	6	Dappled Willow	Salix integra 'Hakuro Nishiki'	5 gal.
	4	East Friesland Meadow Sage	Salvia nemorosa 'East Friesland'	1 gal.
	8	Hosta Elegans	Hosta sieboldiana 'Elegans'	1 gal.
	9	Porcupine Grass	Miscanthus sinensis 'Strictus'	1 gal.
	7	Shenandoah Switch Grass	Panicum virgatum 'Shenandoah'	3 gal.
	5	Sugar and Spice Tiarella	Tiarella 'Sugar and Spice'	1 gal.

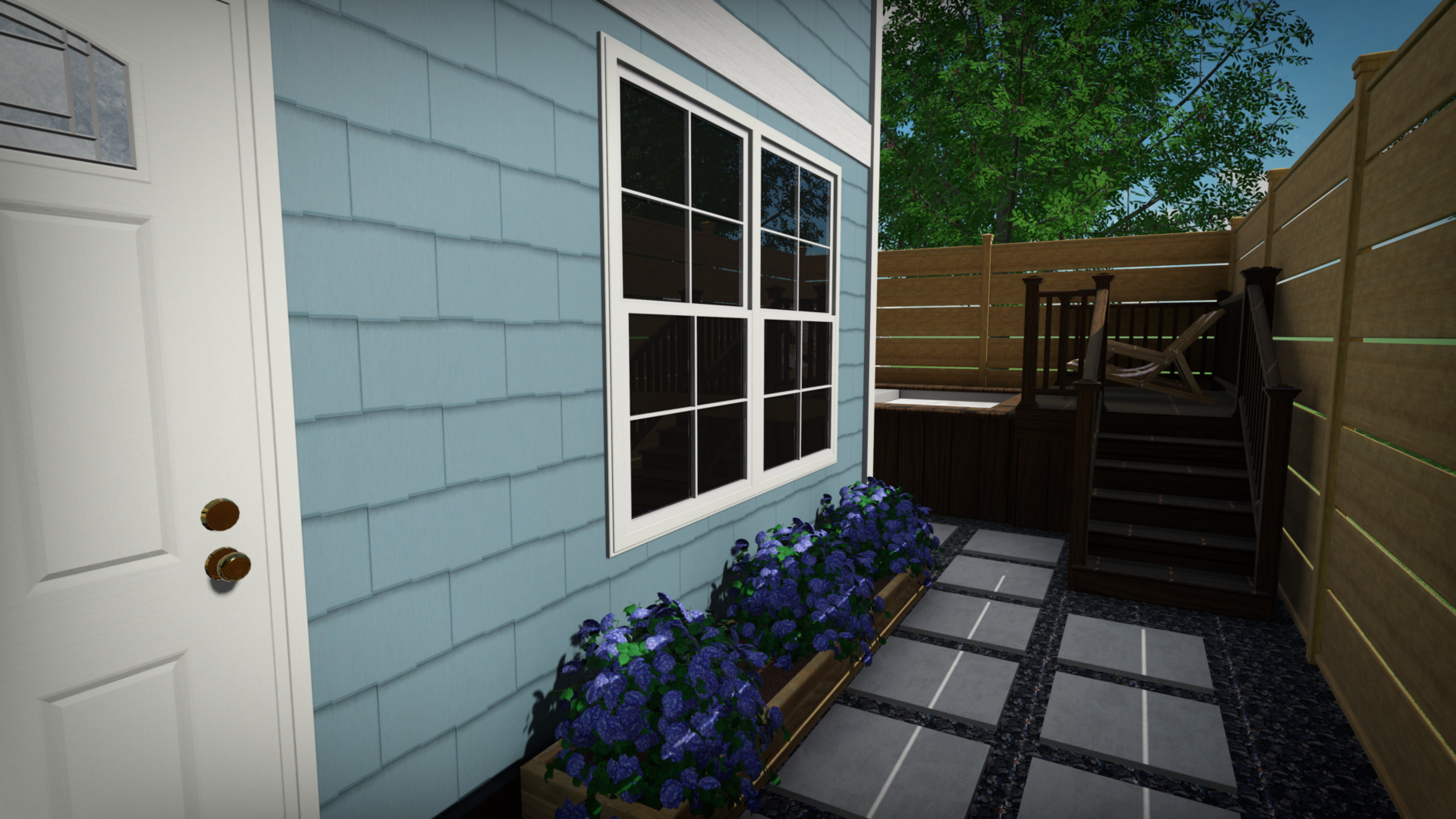






















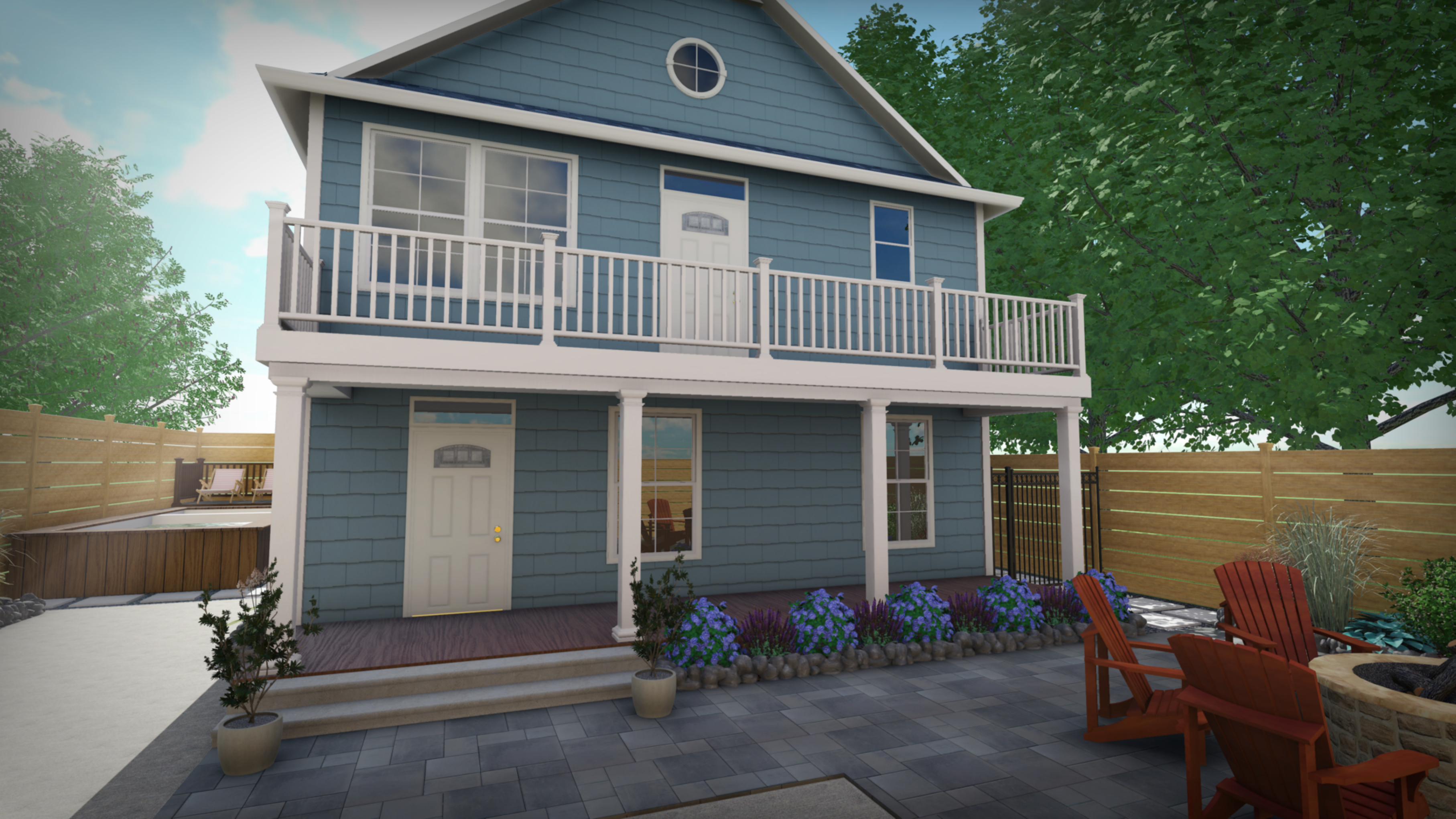
















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DESIGN EXPERTS

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"ShrubHub can design any yard in any style."



"Their innovative design service is changing the way homeowners build their yards."



"ShrubHub is fast, affordable, and perfect for any home improvement project."

I am so excited to host summer parties in my new yard, thanks to ShrubHub! Their designs brought my ideas to life and helped me visualize what my new yard is going to look like. I cannot wait until it is complete!

- Diana A

ShrubHub gave me a birds-eye view of my new yard before I got started. They offer a very cool service that I recommend to anyone getting ready to re-do there backyard.

- Ricky M

www.shrubhub.com





TO: Chairman Kath and Board Members
FROM: Christine Gibboney, Admin Assistant
RE: Updated Draft - BZA Rules
DATE: April 15, 2024

Members of the BZA,

Attached is an updated draft of the BZA Rules for your review. Comments by Legal have been added for your consideration.

In response to the Board inquiry of remote participation at meetings, legal has advised that this would not be allowed.

We can discuss the draft and make any additional edits members wish to include.

CITY OF HURON
BOARD OF BUILDING AND ZONING APPEALS
RULES OF PROCEDURE

The following rules shall govern the meetings of the Board of Building and Zoning Appeals of the City of Huron as established pursuant to Section 7.02 of the City of Huron Charter.

Composition of Membership

There shall be a board of building and zoning appeals consisting of five members who shall be citizens who hold no other city office or employment, selected by the council one each year for overlapping terms of five years.

Officers of The Board

The Board shall elect its own officers annually. The Board shall have a Chairman, Vice-Chairman, and Secretary. The Chairman shall preside over meetings. The Vice-Chairman shall serve in the absence of the Chairman. In the event both the Chairman and Vice-Chairman are absent, the Secretary shall preside.

The Secretary shall execute the adopted minutes of the board which will be prepared by Zoning Department staff.

Quorum and Authorization

Three members of the Board shall constitute a quorum. The Board shall act by making a motion, and a second, and the concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Building Official or any other duly authorized administrative officer, or to decide in favor of an applicant in any matter on which it is required to pass under this Zoning Ordinance, of every such determination shall be stated. A member of the Board shall not be qualified to vote if he/she has not attended the relevant BZA meeting in person, the relevant public hearing in person, or if he has a direct or indirect interest in the issue appealed. (Planning & Zoning Code 1139.02 (c))

Meetings

All meetings shall be open to the public, except as otherwise permitted by law. Regular meetings shall be held on the second Monday of the month, excluding holidays. A calendar of the regular meetings shall be prepared prior to the beginning of each year and legally advertised as required. Regular meetings shall be held at 5:30 P.M., at the Huron City Hall, 417 Main Street, Huron, Ohio. Regular meetings may be cancelled due to a lack of any agenda items.

Special meetings can be called at the discretion of the board. These meetings will be advertised as required. Only matters expressly advertised for the special meeting agenda shall be considered.

Work Session meetings may be scheduled as desired for the purposes of education, enrichment, and/or discussion of topics other than those of an application. No other business shall be conducted, nor shall any application be reviewed or decisions made. These meetings will be advertised as required.

Attendance

Board members shall attend all Board meetings. Board members unable to attend a meeting will notify Zoning staff and the Chair so that quorum can be verified for said meeting. If a board member is absent from three (3) or more consecutive regular meetings without justifiable excuse as determined by the Chair, the Board shall consider recommending that Council consider the appointment of a replacement of the member for the remaining term period. ~~xx~~(Please consider cap

on number of absences overall (>3?), excused or otherwise, whereby the Board shall recommend that Council consider the appointment of a replacement of the member for the remaining term period. BZA provides a valuable service to the community and active participation is vital. ~~xx~~

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Conflict of Interest

Any member having a conflict of interest, direct or indirect, actual or perceived, shall announce at the beginning of the meeting and prior to the introduction to the appeal or request, the existence of said conflict. The member shall refrain from comment, discussion, or participation regarding the appeal or request, including voting thereon. If possible, such a member shall also notify the Zoning Department of a conflict of interest upon receipt of the meeting agenda in order to allow sufficient time to confirm that a quorum will exist.

Order of Business

The order of business at all regular meetings of the Board shall be as follows:

1. Call to Order
2. Roll Call
3. Adoption of the Minutes
4. Verification of Required Noticing
5. Swearing In of those Testifying before the Board
6. Old Business
7. New Business
8. Other Matters
9. Adjournment

The Chairman may alter the order of business as necessary to conduct an orderly and expedient proceeding.

Application

Applicants shall utilize the designated application form and submit same with all required documentation and fee to the Zoning Department by the deadline date. The Zoning Department will review and prepare the application for placement on the next Board agenda, preparing and mailing notices as required.

Hearing

All hearings before the Board shall be open to the public and all applicants and property owners within 150' of the applicant's property shall be provided notice of the hearing, pursuant to Section 1139.02 (e).

The hearing shall proceed as follows:

- Report and/or comments from staff
- Applicant testimony
- Interested persons testimony
- Cross -examination by parties in interest
- Opportunity for rebuttal and closing statements by applicant and other parties of interest
- Deliberation by the Board, which shall include "on the record" references to applicable standards, criteria, or factors under review and considered for each matter that is heard by the Board.

The Board may ask questions at any time.

Decision of the Board

Upon review of the documents, evidence, applicable standards, criteria, or factors under review, and arguments presented to the Board, any member, except for the Chair, may make a motion. The motion shall include not only the ultimate decision, **but also a recitation of the findings** (including but not limited to applicable standards, criteria, or factors under review) **which support the motion.** A second shall be required.

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A certified copy of the Board's decision (Finding of Fact) shall be prepared by the Planning & Zoning Department and issued to the applicant within the week following the meeting.

Minutes and Records

The Board shall keep minutes of its proceedings and shall record the vote on all actions taken. All minutes and records shall be filed with the City, shall be a public record, and shall be retained pursuant to the city's state-approved retention schedule.

Amendments

Amendments to these Rules of Procedure may be made by the Board of Zoning Appeals at any regular or special meeting by action in the form a motion and vote.

These Rules of Procedure of the Board of Zoning Appeals are hereby approved by the affirmative vote of the majority of the members of said Board at a meeting of the Board held on the ___ day of _____, _____.

City of Huron, Board of Building and Zoning Appeals, Huron, OH

SO APPROVED THIS ___ DAY OF _____, _____.

Frank Kath, Chairman

Jim Shaffer

JoAnne Boston

Lisa Brady

Scott Slocum

Reviewed and Approved:

City Law Director

DRAFT