

BOARD OF ZONING APPEALS DIVISION III

August 18, 2026

Case Number:	2026-DV3-028
Property Address:	6335 Old Orchard Road (approximate address)
Location:	Lawrence Township, Council District #9
Petitioner:	Gabriel D. Browne & Emily Kay Love Browne, by Misha Rabinowitch
Current Zoning:	D-S (W-5)
Request:	Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the placement of an accessory hot tub and deck within the front yard (side or rear yard required) and with a front setback of 70 feet (100 feet required).
Current Land Use:	Residential
Staff Recommendations:	Staff recommends approval of the requested variances, subject to a commitment.
Staff Reviewer:	Michael Weigel, Principal Planner I

PETITION HISTORY

This is the first public hearing for this petition.

STAFF RECOMMENDATION

Staff recommends **approval** of the requested variances, subject to a commitment that landscaping be installed around the spa to provide additional visual buffering in substantial compliance with the landscape detail sheet file-dated July 13, 2026.

PETITION OVERVIEW

6335 Old Orchard Road is a pie-shaped, residentially-zoned parcel with a size of 1.52 acres that is currently improved with a single-family residence built in 1949. The property is located within the Brendonwood neighborhood within Lawrence Township, and adjacent land uses are also residential in nature with similar setbacks and open space ratios to the subject property. The site is accessed from a single driveway accessed from Old Orchard Road to the northwest of the existing residence.

Within the past year, began on the installation of a therapeutic hot tub/spa and deck near the northeastern façade of the existing residence, within the front yard (see photo 1 within Exhibits, as well as photos 2-4 for visibility of the project from the street to the north and to the west). This work was initially undertaken without required permits in place, but the construction is currently on hold until all required City approvals have been granted. Approval of this variance would allow for the release of the zoning permit ILP26-01656 and for placement of the hot tub/spa and deck to be completed legally.

Two variances of development standards would be required to allow for installation of the hot tub/spa and deck to be completed as proposed and as partially built:

- The spa and deck would be accessory structures placed between the residence and the front property line to the northeast, and the Ordinance would require placement of these sorts of minor residential structures within side and rear yard areas.
- The spa and deck addition would result in a 70-foot setback from Old Orchard Drive to the northeast. The required front setback for the D-S zoning district would be the *larger* of either (a) 40 feet or (b) the average of the two front-yard setbacks of adjacent properties. In this case, the latter requirement would be for a front setback of 100 feet (given the existing 64-foot setback for the home to the west and 136-foot setback for the home to the southeast). Since the larger 100-foot requirement is not met, a second variance of development standards would be required.

This property is zoned D-S to allow for suburban areas of extreme topography, areas conducive to estate development, or areas where it is desirable to permit only low-density residential development (such as adjacent to floodplains, aquifers, urban conservation areas, within the extended alignment of airport runways, etc.). Similarly, the Comprehensive Plan recommends that the property be developed residentially with a density of 0 to 1.75 residential units per acre (see Comprehensive Plan Analysis below). The property also falls both within an Environmentally Sensitive Areas overlay per the Pattern Book and within a Wellhead Protection Area (wellfield status would not limit residential use or impact applicable development standards)

Application documents and Findings of Fact provided by the petitioner indicate that the placement of the spa in this location would be ideal given proximity to an existing door on the residence for the elderly resident seeking to utilize it for therapeutic purposes. They also indicate that alternate locations of the spa that might be within Ordinance compliance would both result in more difficult access for the resident as well as the need for tree removal to allow construction equipment to access alternate side- or rear-yard locations.

Staff would concur that alternate placement would likely have a negative impact on existing treeline areas (see photos 5 and 6 within Exhibits), and that this removal would run counter to the goals of the Environmentally Sensitive Areas overlay of the Comprehensive Plan. Additionally, the current location of the residence on the lot and the irregular lot shape would create practical difficulties in placing the spa and deck in areas not already designated as a front yard (over 55% of the site is within the front yard).

The front yard setback averaging stipulation for D-S is primarily intended to prevent homes breaking up the visual pattern of the block or that would appear abnormally close to the street compared to neighbors. In this instance, Old Orchard is a highly curvilinear street, and the home with a deeper front setback (6335 Old Orchard Road, photo 8 within Exhibits) is situated to the southeast. The home to the west constituting a clearer precedent for the subject site (6315 Old Orchard Road, photo 7 within Exhibits) has a setback of only 64 feet, which is closer than the proposed 70-foot separation for the subject site. Staff feels that this would be an acceptable deviation from the Ordinance requirement informed by a site-specific practical difficulty, and would also note the placement of some level of existing visual buffering along Old Orchard Drive that would limit the visual impact of having a front-yard accessory hot tub and deck installed within the required front setback area.

To further limit any visual impact, the petitioner also agreed to install additional landscaping around the spa itself, per the landscape plan within Exhibits below. Based on the above analysis, and given this commitment, staff recommends **approval** of the requested variances, with the caveat that this approval recommendation is not based on the fact that construction has already begun (should not be viewed as precedent for favorable recommendations when “asking forgiveness, not permission”).

GENERAL INFORMATION

Existing Zoning	D-S (W-5)	
Existing Land Use	Residential	
Comprehensive Plan	0 – 1.75 Residential Units per Acre	
Surrounding Context	<u>Zoning</u>	Surrounding Context
	North: D-S	North: Residential
	South: D-S	South: Residential
	East: D-S	East: Residential
	West: D-S	West: Residential
Thoroughfare Plan		
	Old Orchard Road	Private Drive 40-foot existing right-of-way
Context Area	Metro	
Floodway / Floodway Fringe	No	
Overlay	Yes ; Environmentally Sensitive	
Wellfield Protection Area	Yes	
Site Plan	07/02/2026	
Site Plan (Amended)	N/A	
Elevations	N/A	
Elevations (Amended)	N/A	
Landscape Plan	07/13/2026	
Findings of Fact	07/02/2026	
Findings of Fact (Amended)	07/13/2026	

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan

- Millersville at Fall Creek Valley Village and Corridor Plan (2015)

Pattern Book / Land Use Plan

- Not Applicable to the Site. See “Neighborhood / Area Specific Plan” below.

Red Line / Blue Line / Purple Line TOD Strategic Plan

- Not Applicable to the Site.

Neighborhood / Area Specific Plan

- **Land Use Category:** Residential Development greater than 0.00 and equal to or less than 1.75 units per acre. This density is consistent with rural development patterns and could also limit the impact of development on property with extreme topography or other significant environmental considerations such as floodplains, wetlands and old-growth woodlands. Additionally, this density would be conducive to agricultural and estate development.
- **Environmentally Sensitive Areas:** Environmental factors should be taken into consideration and have a modifying effect on any development or redevelopment of a site with those conditions. This plan includes an Environmentally Sensitive Areas map that depicts five environmental factors: wetlands, floodplains, steep slopes, woodlands and wellfields.

Infill Housing Guidelines

- Not Applicable to the Project.

Indy Moves

(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.

ZONING HISTORY

ZONING HISTORY – SITE

N/A

ZONING HISTORY – VICINITY

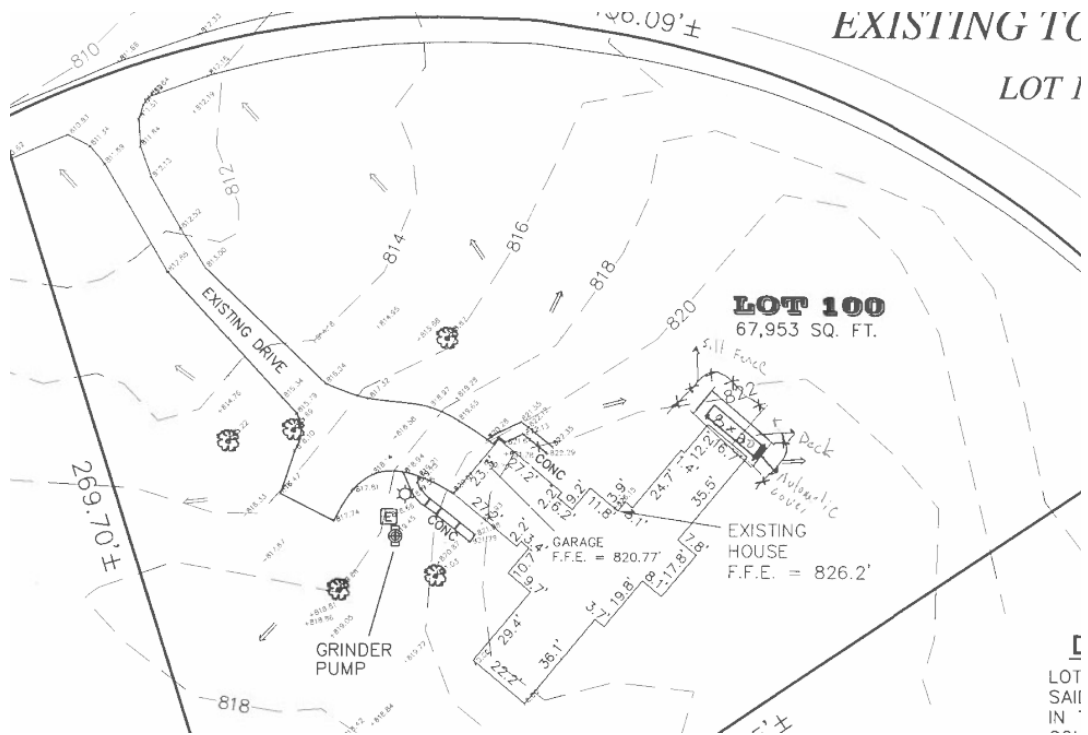
2001UV2016 ; 6220 Lawrence Drive (southwest of site), Variance of use of the Dwelling Districts Zoning Ordinance to legally establish a commercial use, consisting of the storing of medical-related patient charts, a telephone answering service, patient scheduling activities, and medical billing (not permitted) in a detached, 20 by 48-foot guesthouse, **withdrawn**.

EXHIBITS

2026DV3028 ; Aerial Map



2026DV3028 ; Site Plan



2026DV3028 ; Proposed Landscape Buffering



2026DV3028 ; Findings of Fact (Front Yard)

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:

The proposed spa/hot tub will be located over 70 ft. from the adjacent Old Orchard road and will be heavily screened with landscaping.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The proposed spa/hot tub will be located over 70 ft. from the adjacent Old Orchard road and will be heavily screened with landscaping.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

of the configuration of the lot, which is trapezoidal in shape with a front yard that, based upon the ordinance, spans the entire front and north side of the house.

2026DV3028 ; Findings of Fact (Front Setback)

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:

The proposed pool/spa is setback at least 70' from the front property line of this uniquely shaped lot and will be substantially screened from view from the adjacent roadway.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The proposed pool/spa is setback at least 70' from the front property line of this uniquely shaped corner lot and will be substantially screened from view from the adjacent roadway.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

The subject property is a corner lot, trapezoidal in shape, and the adjacent homes are setback a considerable distance from the road, which means that, based upon the manner in which the setback is calculated (average of adjacent front setbacks), the setback for the subject lot is approximately 100', which is a significant distance from the adjacent roadway.

2026DV3028 ; Photographs



Photo 1: Subject Spa Area Viewed from Northwest

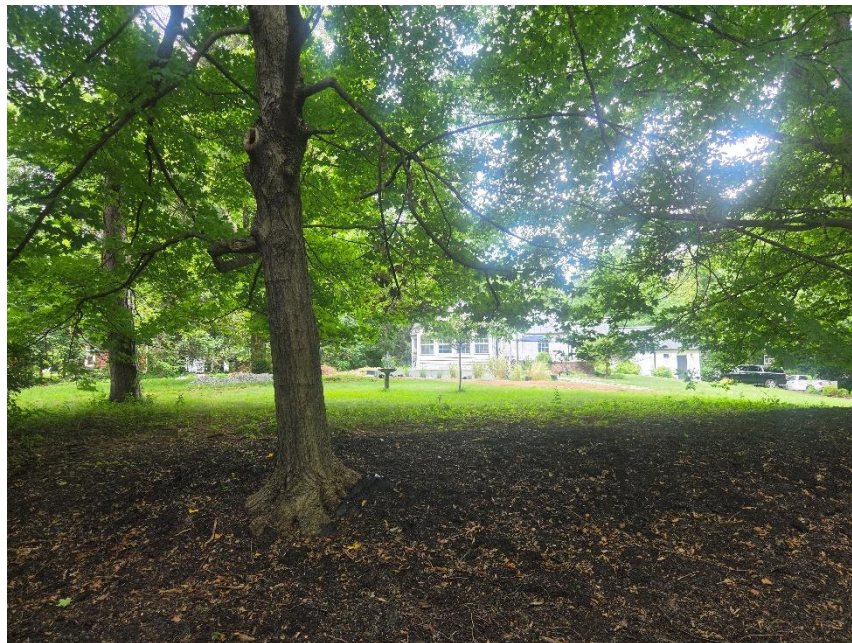


Photo 2: Subject Site Viewed from North

2026DV3028 ; Photographs (continued)



Photo 3: Subject Site Viewed from Northwest

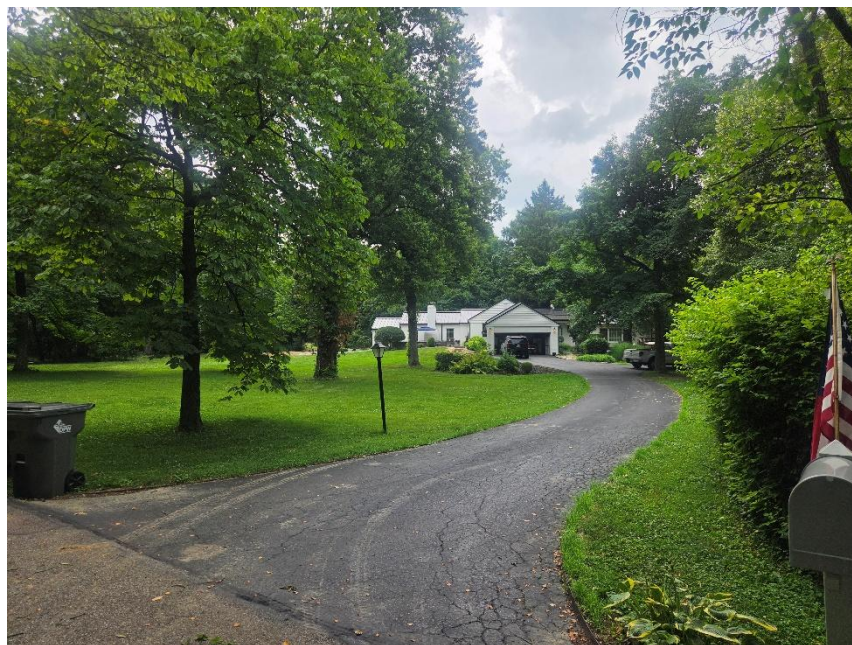


Photo 4: Subject Site Viewed from West

2026DV3028 ; Photographs (continued)



Photo 5: Area to East of Existing Residence



Photo 6: Area to West of Existing Residence

2026DV3028 ; Photographs (continued)



Photo 7: Adjacent Property to West



Photo 8: Adjacent Property to Southeast

2026DV3028 ; Photographs (continued)



Photo 9: Adjacent Property to Northeast



Photo 10: Adjacent Property to East