

# Kenneth J. Fisher Co., L.P.A.

50 Public Square | Suite 3301 | Cleveland, OH 44113  
P 216.696.7661 | F 216.696.0439 | [www.kenfisherlpa.com](http://www.kenfisherlpa.com)

attorneys at law

Kenneth J. Fisher  
[kfisher@fisher-lpa.com](mailto:kfisher@fisher-lpa.com)

Dennis A. Nevar  
[dnevar@fisher-lpa.com](mailto:dnevar@fisher-lpa.com)

John E. Redeker, Of Counsel  
[jredeker@fisher-lpa.com](mailto:jredeker@fisher-lpa.com)

July 9, 2025

**VIA EMAIL ONLY: [kkerber@rockyriverohio.gov](mailto:kkerber@rockyriverohio.gov)**

Kathryn Kerber, Director of Planning & Community Development  
City of Rocky River  
21012 Hilliard Boulevard  
Rocky River, Ohio 44116

**Re: Board of Zoning and Building Appeals  
21228 Avalon Drive, Rocky River, Ohio (the "Property")**

Dear Director Kerber:

Please be advised the undersigned represents Cindy L. LaRue, the record owner of the residential real property located at 21186 Avalon Drive, Rocky River, Ohio (the "LaRue Property"), which is located directly adjacent (to the east) of the above-captioned Property, both of which are existing residential developments located in the R-1 Single-Family Residential District (the "R-1 District") and immediately adjacent to Lake Erie.

As further detailed below, please be advised that my client is opposed to the request by the owner of the Property (the "Applicant") to construct a twenty-eight (28) foot rear addition on the easterly property line of the subject Property directly adjacent to the LaRue Property, which would require a twenty-eight (28) foot area variance (the "Area Variance") from the rear setback requirements contained in Codified Ordinance Schedule 1153.07.

As an initial matter, Codified Ordinance Section 1153.01 details the purposes of the R-1 District which include, without limitation:

- A. To regulate the bulk and location of dwellings, accessory buildings, and other structures to obtain proper privacy and useable open spaces on each lot appropriate for the various districts.
- B. To protect the desirable characteristics and promote the stability of existing residential development.

Pursuant to Codified Ordinance Section 1133.17(c), the Board of Zoning and Building Appeals (the "Board") shall review each application for a variance to determine if it complies with the purpose and intent of the Development Code and evidence demonstrates that the literal enforcement of the Development Code will result in practical difficulty or unnecessary hardship. The Board shall not grant a variance unless it shall, in each case, make specific findings of fact directly based upon the particular evidence presented to it from the specified factors.

Pursuant to Codified Ordinance Section 1133.17(c)(1), the following factors shall be considered and weighed by the Board when considering an application for an area variance:

- A. Whether special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable generally to other lands of structures in the same zoning district.

**In the instant case, there are no special conditions or circumstances that exist which are peculiar to the subject Property and do not otherwise apply to other similarly situated residential properties in the R-1 District located adjacent to Lake Erie, all of which would presumably prefer to be as close to the lake as possible to maximize desirable views.**

**The purpose of the rear setback requirements, especially relative to properties adjacent to the lake, is to ensure proper open space and protect the desirable characteristics of such lakefront properties, i.e., the view. Such desirable characteristics would be substantially degraded as to the adjoining LaRue Property, an existing residential development, in the event the requested Area Variance was approved and create an undesirable precedent that is contrary to the purpose and intent of the R-1 District.**

- B. Whether the property in question will yield a reasonable return or whether there can be an beneficial use of the property without the variance.

**As detailed in the subject Application and per enclosed Cuyahoga County records, the residential structure located on the subject Property was constructed in 1998 and has been utilized (and will continue to be utilized) as a single-family residential structure.**

**Further, per enclosed Cuyahoga County records, the subject Property is valued at \$5,148,800.00 for Tax Year 2024 (up from \$3,456,000.00 for Tax Year 2023).**

**Denial of the requested Area Variance will have no affect on the beneficial use of the Property and/or the ability of the Applicant to yield a reasonable return thereon.**

- C. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures.

**In the instant case, the requested Area Variance is substantial as the entirety of the proposed twenty-eight (28) foot rear addition is located within the existing rear setback. Further, the requested Area Variance is not necessary for the continue use of the subject Property as a single-family residence.**

- D. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance.

**As detailed above, the purpose of the rear setback requirements, especially relative to properties adjacent to the lake, is to ensure proper open space and protect the desirable characteristics of such lakefront properties, i.e., the view. Such desirable characteristics would be substantially degraded as to the LaRue Property, an existing residential development, in the event the requested Area Variance was approved and create an undesirable precedent that is contrary to the purpose and intent of the R-1 District.**

- E. Whether the variance would adversely affect the delivery of governmental services, such as water, sewer or trash pickup.

**N/A.**

- F. Whether the property owner purchase the property with knowledge of the zoning restrictions.

**Per enclosed Cuyahoga County records, the Applicant purchased the subject Property in October of 2015. Accordingly, the Applicant had actual and/or constructive knowledge of the rear setback requirements as contained in Codified Ordinance Schedule 1153.07.**

- G. Whether special conditions of circumstances exist as a result of actions of the owner.

**N/A.**

- H. Whether the property owner's predicament feasibly can be obviated through some method other than a variance.

**In the instant case, the requested Area Variance to allow for construction of a rear addition to expand the existing kitchen of a structure built in 1998 on a property valued in excess of \$5,000,000.00 is hardly a predicament. The existing kitchen has adequately serviced the subject Property for over 25 years and same will continue to be utilized as a single-family residential structure in the event that the Area Variance is denied.**

- I. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance.

**In the instant case, the purpose of the rear setback requirements, especially relative to properties adjacent to the lake, is to ensure proper open space and protect the desirable characteristics of such lakefront properties, i.e., the view. Such desirable characteristics would be substantially degraded as to the LaRue Property, an existing residential development, in the event the requested Area Variance was approved and create an undesirable precedent that is contrary to the purpose and intent of the R-1 District.**

**Further, the existing kitchen has adequately serviced the subject Property for over 25 years and same will continue to be utilized as a single-family residential structure in the event that the Area Variance is denied.**

- J. Whether the granting of the variance will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

**As previously detailed, the purpose of the rear setback requirements, especially relative to properties adjacent to the lake, is to ensure proper open space and protect the desirable characteristics of such lakefront properties, i.e., the view. Such desirable characteristics would be substantially degraded as to the LaRue Property, an existing residential development, in the event the requested Area Variance was approved and create an undesirable precedent that is contrary to the purpose and intent of the R-1 District.**

- K. Whether a literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.

Kathryn Kerber, Director of Planning & Community Development  
City of Rocky River  
July 9, 2025  
Page 5

**Strict enforcement of the rear setback requirements relative to lakefront properties in the R-1 District is consistent with the purpose and intent of the R-1 District and would not deprive the Applicant of rights commonly enjoyed by similarly situated properties.**

Accordingly, it is my client's position that requested Area Variance is wholly inconsistent with the purpose and intent of the Development Code and the Applicant has failed to provide evidence demonstrating that the literal enforcement of the Development Code will result in practical difficulty. As such, the requested Area Variance must be denied as a matter of law.

Please circulate copies of this correspondence to the Members of the Board and include same within the Board's Minutes of July 10, 2025, wherein I will be in attendance.

Thank you for giving this matter your immediate attention and do not hesitate to have Law Director O'Shea contact me with any questions ahead of tomorrow's meeting.

Very truly yours,



Kenneth J. Fisher

KJF/dan


encs.

cc: Pamela E. Bobst, Mayor ([mayor@rockyriverohio.gov](mailto:mayor@rockyriverohio.gov))  
Michael J. O'Shea, Law Director ([moshea@rockyriverohio.gov](mailto:moshea@rockyriverohio.gov))  
Dylan Minek, Planning & Community Development Administrator  
([dminek@rockyriverohio.gov](mailto:dminek@rockyriverohio.gov))  
Raymond Reich, Building Commissioner ([rreich@rockyriverohio.gov](mailto:rreich@rockyriverohio.gov))

Cuyahoga County, Ohio - Property Summary Report  
Parcel: 302-11-008

**Owner** FORTNEY, RUTH A., TRUSTEE  
**Address.** 21228 AVALON DR  
ROCKY RIVER, OH. 44116  
**Land Use** (5100) R - 1-FAMILY PLATTED LOT  
**Description** 25 BCLF #1 BLK-B 0006 ALL  
**Neighborhood Code** 03201

**SKETCH**

 Building Sketch

**MAP VIEW**



**BUILDING INFORMATION**

Building Record Number	1	Occupancy	1-FAMILY	Story Height	2
Style	COLONIAL	Year Built	1998	Exterior Walls	STONE
Condition	EXCELLENT	Construction Quality	AA / EXCELLENT+	Roof Type	GABLE
Roof Material	SLATE	Heat Type	FORCED-AIR	Air Conditioning	CENTRAL
Attic Type	NONE	Basement Type	WALKOUT	Basement Square Feet	3,262
Basement Finished	N/A	Rooms	10	Bedrooms	4
Bathrooms (Full/Half)	5/2	Garage Type	ATTACHED	Garage Capacity	3
Year Garage Buil	1998	Garage Size	806	Living Area Basement	
Living Area 1	3,351	Living Area 2	3,727	Living Area Upper	
Living Area Total	7,078	Floor Location		Party Wall	N

**LAND**

Code	Frontage	Depth	Acreage	Sq Ft
PRM	75	289	0.55	23,987

**VALUATION**

2024 Values	Taxable Market Value	Exempt Market Value	Abated Market Value	Assessed Taxable Value
Land Value	\$636,400	\$0	\$0	\$222,740
Building Value	\$4,512,400	\$0	\$0	\$1,579,340
Total Value	\$5,148,800	\$0	\$0	\$1,802,080
Land Use	5100			SINGLE FAMILY DWELLING

**PERMITS**

Tax Year	Reason	Tax Change	Exempt Change	Percent Complete	Reinspect	Notes
----------	--------	------------	---------------	------------------	-----------	-------

**IMPROVEMENTS**

Type	Description	Size	Height Depth
------	-------------	------	--------------

**SALES**

Date	Buyer	Seller	Price
10/15/2015	FORTNEY, RUTH A., TRUSTEE	Foran, Joyce A Trustee	\$4,900,000
2/15/2000	Foran, Joyce A Trustee	Foran, Terrence L.	\$0
3/23/1998	Foran, Terrence L.	Foran, Terrence L.	\$382,500
3/23/1998	Foran, Terrence L.	Fifth Third Bank Of N.E Ohio	\$382,500
7/24/1996	Fifth Third Bank Of N.E Ohio	Nat'L City Bank (Trs) 1/2	\$0
1/12/1995	Nat'L City Bank (Trs) 1/2	Gensler, Paul F.	\$0
9/22/1993	Gensler, Paul F.	Gensler, Paul F.	\$0
8/11/1986	Gensler Paul F	Gensler Paul F & Mary O	\$0
1/1/1975	Gensler Paul F & Mary O		\$0

**Taxes**

2024 Taxes	Charges	Payments	Balance Due
Tax Balance Summary	\$99,510.86	\$99,510.86	\$0.00



# CUYAHOGA COUNTY, *Ohio*

## MyPlace

Search

City Rocky River



Search By

☒ Owner☐ Parcel☐ Address

30211008 | FORTNEY, RUTH A., TRUSTEE | 21228 AVALON DR | ROCKY RIVER | 44116

[View Map](#)

### PROPERTY DATA

[General Information](#)[Transfers](#)[Values](#)[Land](#)[Building Information](#)[Building Sketch](#)[Other Improvements](#)[Permits](#)[Property Summary Report](#)

### TAXES

[Tax By Year](#)[Pay Your Taxes Online](#)

### LEGAL RECORDINGS

[Get a Document List](#)

### ACTIVITY

[Informal Reviews](#)[Board of Revisions Cases](#)

302-11-008

FORTNEY, RUTH A., TRUSTEE

21228 AVALON DR

ROCKY RIVER, OH. 44116

# Value History

Tax year: 2024 - Total Value: \$5,148,800

Tax year: 2023 - Total Value: \$3,456,000

Tax year: 2022 - Total Value: \$3,456,000

Tax year: 2021 - Total Value: \$3,456,000

Tax year: 2020 - Total Value: \$3,200,000

Tax year: 2019 - Total Value: \$3,200,000

Tax year: 2018 - Total Value: \$3,200,000

Tax year: 2017 - Total Value: \$1,927,900

Tax year: 2016 - Total Value: \$1,927,900

Tax year: 2015 - Total Value: \$1,927,900

Tax year: 2014 - Total Value: \$1,647,800

Tax year: 2013 - Total Value: \$1,647,800

Tax year: 2012 - Total Value: \$1,647,800

Tax year: 2011 - Total Value: \$1,590,600

Tax year: 2010 - Total Value: \$1,590,600

Tax year: 2009 - Total Value: \$1,590,600

Tax year: 2008 - Total Value: \$1,730,000

Tax year: 2007 - Total Value: \$1,730,000

Tax year: 2006 - Total Value: \$1,730,000

Tax year: 2005 - Total Value: \$1,555,700

Tax year: 2004 - Total Value: \$1,555,700

Tax year: 2003 - Total Value: \$1,555,700

Tax year: 2002 - Total Value: \$1,555,700

Tax year: 2001 - Total Value: \$1,555,700

Tax year: 2000 - Total Value: \$1,555,700

Tax year: 1999 - Total Value: \$1,384,900

Tax year: 1998 - Total Value: \$211,700

Tax year: 1997 - Total Value: \$225,600



**Tax year: 1996 - Total Value: \$254,400**[Top](#)[View Map](#)

Updated :07/09/2025 03:34:33 AM

Disclaimer: Cuyahoga County provides this geographic data and related analytical results as a free public service on an "as is" basis. Cuyahoga County makes no guarantee(s) or warranty(ies) as to the accuracy, completeness, or timeliness of the information contained herein, and said information is not intended to, nor does it, constitute an official public record of Cuyahoga County. While much of the data contained herein is compiled from public records, the official records of the public office or agency from which they were

compiled remains the official record of any such public office or agency. **By accessing, viewing or using any part of the site, you expressly acknowledge you have read, agree to and consent to be bound by all of the terms and conditions listed on this site. Routine maintenance is performed on Fridays and disruptions may occur. We apologize for any inconvenience.**

WATER DEPARTMENT OFFICIALS: AS OF JANUARY 1, 2021 PLEASE UTILIZE THE TRANSFER TAB ON THE MYPLACE SITE TO DETERMINE OWNERSHIP FOR CREATING OR CLOSING ACCOUNTS. PARCEL DATA ON PROPERTY TRANSFERS ARE UPDATED DAILY. THEREFORE, YOU CAN NOW RELY ON THIS SITE FOR ACCURATE REAL PROPERTY OWNERSHIP. YOU ARE ALSO WELCOME TO ACCEPT COPIES OF RECORDED DEEDS FROM OUR OFFICE.

THANK YOU