



Board of Zoning Appeals
Meeting Minutes
January 25, 2016
7:00 p.m.

New Albany Board of Zoning Appeals met in the Council Chamber of Village Hall, 99 W Main Street and was called to order by BZA Chair, Shull at 7:00 p.m.

Those answering roll call:

Mr. Matt Shull, Chair	Present
Mr. Jesse Thomas	Present
Ms. Julie Kriss	Present
Mr. Bill Steele	Present
Ms. Marlene Brisk	Present
Mr. Mike Mott (Council Representative)	Absent

Staff members present: Adrienne Joly, Deputy Director; Stephen Mayer, Planner and Pam Hickok, Clerk

Mr. Shull led the Pledge of Allegiance to the Flag of the United States of America.

Moved by Steele to approve the September 28, 2015 minutes, Seconded by Kriss. Upon roll call: Shull, yea; Thomas, yea; Kriss, yea; Steele, yea Brisk, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Moved by Kriss to approve the November 23, 2015 minutes, Seconded by Thomas. Upon roll call: Shull, yea; Thomas, yea; Kriss, yea; Steele, yea Brisk, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Mr. Shull asked for any changes or corrections to the agenda.

Mr. Mayer stated none.

Mr. Shull swore to truth those wishing to speak before the Commission.

Mr. Shull invited the public to speak on non-agenda related items.

Moved by Kriss to accept the staff report and related documents into the record, Seconded by Steele. Upon roll call: Shull, yea; Thomas, yea; Kriss, yea; Steele, yea; Brisk, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

V-109-2015 Variance – Keswick Mews Section 1

Variance to Codified Ordinance Chapter 1167.03(d) to increase the maximum permitted driveway width to 20 feet at lots 1-5 of Keswick Mews Section 1 (PID: 222-004689, 222-004690, 222-004691, 222-004692, and 222-004693).

Applicant: Richmond Square LLC c/o Underhill Yaross & Hodge LLC

Mr. Mayer presented the staff report.

Mr. Shull asked if alley C is the same as McDonald Lane

Mr. Mayer stated yes.

Mr. Steele stated that all of the exhibits shows it as alley C.

Mr. Thomas asked if there are single family detached units.

Mr. Mayer stated that they were originally planned as condo units but were subdivided into five lots in 2014 so they could be developed as single family detached units.

Mr. Steele stated that the two other single family homes appear to have driveways that are about 28 feet. It appears that both lots 1 & 2 have the curb cut as proposed prior to this hearing.

Mr. Charles Driscoll, Duffy Homes, stated that on lot 1 it was built as submitted at 12-13 feet. We have a buyer for lot 2 so we built the driveway straight out as proposed. We will have four other homes that face Keswick Drive and they will have 12 ft. driveways on Keswick. We have an approval letter from NACO. All four sides of us have wider driveways.

Mr. Shull stated that it seems to be fine; they back up to the alley and are similar to other driveways. I measured both driveways and they are both over 20 feet.

Mr. Driscoll stated that I thought the measurement was 12 feet back.

Ms. Joly stated that it was submitted for revision properly and with the variance request the construction may have been ahead of this process. Staff will look to see if any trees needs replaced.

Mr. Thomas asked if we had any comment from neighbors.

Mr. Mayer stated that one neighbor called and had questions but no concerns.

Mr. Shull read the staff report recommendation.

Moved by Thomas to approve V-109-2015 subject to the following conditions:

1. Driveways are only allowed to be located off of McDonald Lane.
2. If an alley tree is displaced due to a driveway it is relocated or replaced, Seconded by Steele. Upon roll call: Shull, yea; Thomas, yea; Kriss, yea; Steele, yea; Brisk, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Mr. Mayer stated that the appeal for the detached garage. The city attorney recommends that we have 3 board members at the hearing. We have Mr. Steele and Mr. Shull committed and would like to have another board member volunteer.

Mr. Brisk asked what date.

Ms. Joly stated that we think it will be continued until February 26th but we don't have confirmation at this time.

Mr. Shull asked who they should email.

Ms. Joly stated to email Steve.

Mr. Shull asked which judge.

Ms. Joly stated that she believes it is still Judge Brown.

Mr. Thomas asked why we should have three board members present.

Ms. Joly stated that it would be a good idea to have a quorum if they asked why members voted no.

Moved by Kriss to adjourn, Seconded by Thomas. Upon roll call: Shull, yea; Thomas, yea; Kriss, yea; Steele, yea; Brisk, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Meeting adjourned at 7:20 pm.

APPENDIX



Board of Zoning Appeals Staff Report January 25, 2016 Meeting

KESWICK MEWS SECTION 1 DRIVEWAY WIDTH VARIANCE

LOCATION: Five platted lots generally located south of Keswick Drive, west of Johnstown Road, north of Richmond Square, and east of Ogden Woods (PID: 222-003933)

APPLICANT: Richmond Square LLC c/o Underhill Yaross LLC

REQUEST: Variance

ZONING: I-PUD: NACC Section 21 Subarea 2

STRATEGIC PLAN: Village Center

APPLICATION: V-109-2015

Review based on: Application materials received December 16, 2015.

Staff Report completed by Stephen Mayer, Community Development Planner.

I. REQUEST AND BACKGROUND

The applicant requests review of a variance application to allow a maximum driveway width of 20 feet where code permits a maximum of 12 feet. This applies to the five lots within the Keswick Mews subdivision.

II. SITE DESCRIPTION & USE

This development south of Keswick Drive was rezoned to I-PUD (Richmond Square: NACC 21, Subarea 2) in 2005 (ZC/PDP-02-2005). The Planning Commission approved a final development plan (FDP-03-05) and final plat (FP-06-05) on June 6, 2005. This previously approved Final Development Plan contains 7 attached units along the south side of Keswick Drive between the public alleys.

City Council approved the final plat on June 21, 2005 (Resolution R-42-2005) and approved a one year extension of the final plat on February 21, 2006 (Resolution R-16-2006). The final plat was recorded on March 17, 2006.

A final plat for 5 single family homes on the 0.729+/- acres within this same area was approved in September 2014.

III. EVALUATION

The application complies with application submittal requirements in C.O. 1113.03, and is considered complete. The Property owners within 200 feet of the property in question have been notified.

Criteria

The standard for granting of an area variance is set forth in the case of *Duncan v. Village of Middlefield*, 23 Ohio St.3d 83 (1986). The Board must examine the following factors when deciding whether to grant a landowner an area variance:

All of the factors should be considered and no single factor is dispositive. The key to whether an area variance should be granted to a property owner under the “practical difficulties” standard is whether the area zoning requirement, as applied to the property owner in question, is reasonable and practical.

1. *Whether the property will yield a reasonable return or whether there can be a 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 adjoining properties suffer a “substantial detriment.”*
4. *Whether the variance would adversely affect the delivery of government services.*
5. *Whether the property owner purchased the property with knowledge of the zoning restriction.*
6. *Whether the problem can be solved by some manner other than the granting of a variance.*
7. *Whether the variance preserves the “spirit and intent” of the zoning requirement and whether “substantial justice” would be done by granting the variance.*

Plus, the following criteria as established in the zoning code (*Section 1113.06*):

8. *That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.*
9. *That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.*
10. *That the special conditions and circumstances do not result from the action of the applicant.*
11. *That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.*
12. *That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.*

IV. RECOMMENDATION

Considerations and Basis for Decision

- A. Variance to allow a maximum driveway width of 20 feet whereas C.O. 1167.03(d) requires, for all single family residences, all driveway curb cuts shall be designed to accommodate a maximum 12-foot driveway at the right-of-way line.**

The following should be considered in the Board’s decision:

1. Codified Ordinance section 1167.03(d) states “for all single-family residences, all driveway curb cuts shall be designed to accommodate a maximum 12-foot driveway at the right-of-way line.”
2. The variance request is to increase the maximum allowed driveway width at the right of way from 12 feet to 20 feet for the five platted lots located south of Keswick Drive and to the east of Ogden Wood Boulevard.
3. The five lots are adjacent to the public alley McDonald Lane. The applicant states that driveways for these lots are and will be located along this alley. Staff recommends a condition of approval requiring driveways are only allowed on McDonald Lane.
4. The applicant explains in their narrative that until the re-platting of the property in 2014, the applicant/owner had planned to construct a residential townhome product on this site. Prior to the re-platting, plans for townhomes which were approved by the Planning Commission as part of a final development plan were permitted to have driveways that are 20 feet in width. Prospective purchasers of the lots that are subject to this application have indicated a desire to have three-car garages (either attached or some combination of attached and detached) which would be better served by a drive-way that is a maximum of 20 feet in width. Perspective buyers wish to increase the width to allow for easier maneuverability.
5. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a “substantial detriment.” McDonald Alley is used by multiple subdivisions in the area including Richmond Square and the homes along Ogden Woods Boulevard. This is an enclosed alley system with all backs of houses. No houses are or will be fronting onto this alley. Richmond Square currently has units with 20 foot wide driveways. If this property was developed as multi-family type unit, like Richmond Square or Keswick, the 12-foot wide driveway requirement would not apply.
6. The alley has existing alley trees installed. Staff recommends a condition of approval requiring that if an alley tree is displaced due to a driveway it is relocated or replaced.
7. It appears that granting the variance will not adversely affect the health and safety of persons residing in the vicinity.
8. It appears granting the variance will not adversely affect the delivery of government services.
9. This is a unique situation since these detached single family lots are adjacent to alleys. The code requirement was likely written to regulate homes with a front driveway where it visible along the public streets.
10. The request does not seem to be substantial since the wider driveways will be located along the public alley. The alley’s purpose is for vehicles to access the private lots. It does not appear the driveways will be visible from the primary streets such as Keswick Drive and Main Street.

Staff recommends approval of the requested variance should the Board of Zoning Appeals find that the application has sufficient basis for approval. In summary, the variance request does not appear to be substantial given the surrounding existing conditions and the unique nature of the lots themselves. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a “substantial detriment.” The alley’s purpose is for vehicles to access the private lots. It does not appear the driveways will be visible from the primary streets such as Keswick Drive and Main Street. McDonald

Alley is used by multiple subdivisions in the area including Richmond Square and the homes along Ogden Woods Boulevard that currently have driveways wider than 12 feet.

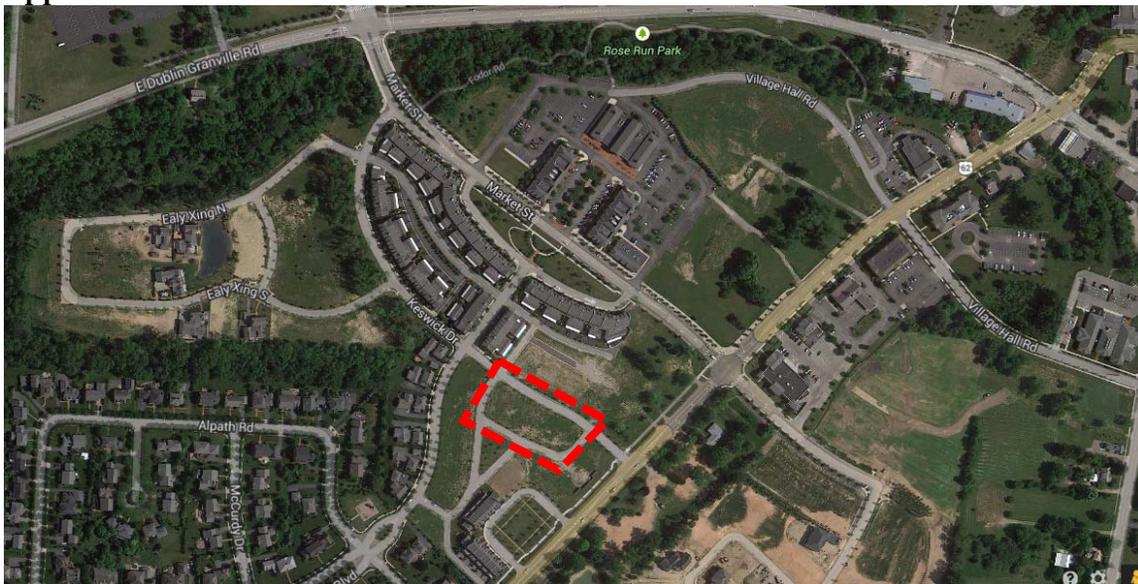
V. ACTION

Should the Board of Zoning Appeals find that the application has sufficient basis for approval, the following motion would be appropriate:

Move to approve application V-109-2015 with the following condition(s) of approval:

1. Driveways are only allowed to be located off of McDonald Lane.
2. If an alley tree is displaced due to a driveway it is relocated or replaced.

Approximate site Location:



Source: Google Maps