



# Board of Zoning Appeals

## Meeting Minutes

April 4, 2016

6:30 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, Kriss at 6:32p.m.

Ms. Kriss led the Pledge of Allegiance to the Flag of the United States of America.

Those answering roll call:

Ms. Julie Kriss	Present
Mr. Jesse Thomas	Present
Ms. Alicia Miller	Present
Mr. Mike Durik	Present
Ms. Marlene Brisk	Present
Mr. Mike Mott (Council Representative)	Absent

Staff members present: Adrienne Joly, Deputy Director; Stephen Mayer, Planner; Mitch Banchefsky, City Attorney and Pam Hickok, Clerk.

Ms. Kriss swore to truth those wishing to speak before the Commission.

Ms. Kriss invited the public to speak on non-agenda related items. Received no response.

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

### V-25-2016 Variance

**Variances to the Innovation District Subarea A zoning text for a new multi-tenant site generally located at the northeast corner of Smith’s Mill Road and Beech Road. (PID: 095-112104-00.000 & 093-107004-00.000).**

**Applicant: MBJ Holdings, LLC c/o Aaron Underhill, Esq.**

Mr. Stephen Mayer presented the staff report.

Mr. Aaron Underhill, representing NACO, stated that the subarea B to the south allowed the GE uses and retail. Planning Commission wanted secondary review of the retail subareas which is why this is different process than the other buildings. This use is a LGE use similar to the buildings in the surrounding area. The side yard setback reduction will occur between neighbors that are affiliated but have different names.

Mr. Durik asked what the existing multi-tenant building setback to pavement is.

Mr. Mayer stated that he is not sure but will try to look it up.

Mr. Durik asked if a variance was approved for that property. It appears to encroach the 25 feet.

Mr. Mayer stated that a variance did not occur. I believe that vehicular parking does not have a setback requirement. This variance is required because it is a service area.

Mr. Durik stated that he just wants to make sure that we are consistent.

Ms. Miller asked what the impact would be if this wasn't approved?

Mr. Underhill stated that the building would need to be thinner and issues with the truck navigation.

Mr. Tom Rubey, New Albany Company, stated that if you look at the west side of the property we have the greywater pond and the building can't be shifted. We pushed the building as far to the west as possible.

Mr. Thomas stated that it seems like a lot of cooperation with the applicant and the neighbor. Fifteen feet does not seem like a lot of room to turning and serving the building.

Ms. Adrienne Joly stated that the request would reduce the green space to allow more pavement to allow for maneuverability.

Mr. Durik stated that you will have a very narrow green space. Will this present any safety concerns with truck movement and where will the snow be stacked.

Ms. Joly stated that you will have the reduced area of green space but you will also have some open area on the other lot.

Mr. Durik stated that the concern is that you have both parking lots pushing snow into the same area.

Mr. Rubey stated that not all of the truck bays are used all of the time. They may need to use some of the truck bays to stack the snow.

Mr. Mayer stated that they have about 25' between both paved areas.

Ms. Brisk asked if they typically push the snow on the green space or just stack it in the parking lot.

Mr. Durik asked if both building will be owned by comparable owners. He stated that there are no issues from the current other multi-tenant owner.

Mr. Underhill stated that is correct.

Mr. Mayer stated that we mailed neighbor notifications and did not received any phone calls.

Ms. Brisk asked if all of the existing tenants in the multi-tenant building are part of the supply chain.

Mr. Rubey stated that the existing building they all are.

Ms. Miller asked what type of retail use would be allowed in this area.

Mr. Rubey showed on the map the subareas that permit retail including restaurants with drive-thrus and gas stations.

Mr. Durik asked if all the truck traffic would exit onto Innovation Campus.

Mr. Rubey stated yes.

Mr. Thomas asked since this building is over two subareas and heard by two different boards should we have a condition that it is contingent on Planning Commission approval.

Ms. Joly stated that if there is not a condition then the approval would run with the land.

Mr. Underhill stated that a condition would be fine.

Kriss stated that based upon the facts in the staff report and the testimony heard during tonight's hearing; moves to approve V-25-2016 subject to the condition that it is contingent on approval by Planning Commission, Seconded by Thomas. Upon roll call: Kriss, yea; Miller, yea; Thomas, yea; Durik, yea; Brisk, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

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

Meeting adjourned at 6:55 pm.

# APPENDIX



## Board of Zoning Appeals Staff Report April 4, 2016 Meeting

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### MULTI-TENANT BUILDING II SETBACK VARIANCE

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LOCATION: Northeast corner of Smith's Mill Road and Beech Road within Innovation District Subarea A (PID: 095-112104-00.000 and 093-107004-00.000)

APPLICANT: MBJ Holdings, LLC c/o Aaron Underhill, Esq.

REQUEST: Variance to Codified Ordinance Section 1153.04(c) to allow a service area to be setback 14+/- feet from a side lot line where code requires a minimum of 25 feet.

ZONING: L-GE [Limited General Employment] – Innovation District Limitation Text Subarea A

STRATEGIC PLAN: Office District and Mixed Retail/Office District

APPLICATION: V-25-2016

Review based on application materials received March 23, 2016.

*Staff report prepared by Stephen Mayer, Community Development Planner.*

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#### **I. REQUEST AND BACKGROUND**

The applicant requests a variance to allow a service area, used for truck loading, to be located approximately 14 feet from a side lot line. Codified Ordinance Chapter 1153.04 (c) requires that any structure or service area within the LI or GE Districts, shall be not less than 25 feet from any interior lot line.

Per C.O section 1113.05 property owners within 200 feet of the property in question have been notified.

#### **II. SITE DESCRIPTION & USE**

The site undeveloped. The site is located within Licking County, north of state route 161, east of Beech Road within the portion of the business park known as the Personal Care and Beauty Campus. The neighboring uses and zoning districts include L-GE and Planned

Unit Development (PUD). The portion of the site within this subarea consists of 8.18+/- acres. The neighboring uses and zoning districts include L-GE zoned districts.

The site is located within two zoning districts. The northern portion of the property is zoned L-GE, under the Innovation District Subarea A Limitation Text and requires the Board of Zoning Appeals to review variances. The southern portion of the property of development is zoned I-PUD under the Innovation District Subarea B PUD Text and requires the Planning Commission to review variances. The zoning runs with land. Therefore, the portions of the development's variance request under each zoning district will be reviewed by the corresponding board and commission.

### **III. ASSESSMENT**

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. EVALUATION**

##### ***Considerations and Basis for Decision***

##### **A. Variance to Codified Ordinance Section 1153.04(c) to allow a service area to be setback 14 feet from a property line where code requires a minimum of 25 feet.**

The following information should be considered in the Board's decision:

- The site is zoned L-GE (Limited-General Employment). The limitation text is silent on side yard setbacks, so regulations found in Codified Ordinance 1153 (General Employment District) apply.
- Per Codified Ordinance Section 1153.04(c) for any structure or service area within the GE Districts the required side yard shall be not less than twenty-five (25) feet from any interior lot line. The applicant is proposing a service area that encroaches the side yard setback by approximately 11 feet (10.73 feet per the submitted plans).
- The applicant proposes to develop a 260,000 square foot industrial warehouse building. A truck loading area (service area) is located on the east side of the site.
- The applicant states this property will likely soon be under the same ownership and control as the property to the east. The property is owned by two unaffiliated entities both of whom are supportive of the setback reduction.
- The variance does not appear to be substantial and preserves the "spirit and intent" of the zoning requirement since the likely objective of the requirement is to buffer between different types of commercial uses. However, in this case, the neighboring property is the existing Pizzuti multi-tenant building that permits the same uses. These two properties are consistent and compatible in nature.
- It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties suffer a "substantial detriment" since this same development pattern is utilized in other areas of the Personal Care and Beauty Campus.
- It does not appear that the variance would adversely affect the delivery of government services, 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.

In summary, the variance request does not appear to be substantial given the fact that this property and the neighboring parcel are consistent and compatible in nature. The intent of the regulation is likely to provide buffering between general employment uses (office and personal services) and other "industrial" uses like research and production, and warehouse and distribution. However, in this case, the neighboring property is also a multi-tenant building that permits the same uses. These two properties are consistent and compatible in nature, and will likely soon be under the same ownership and control.

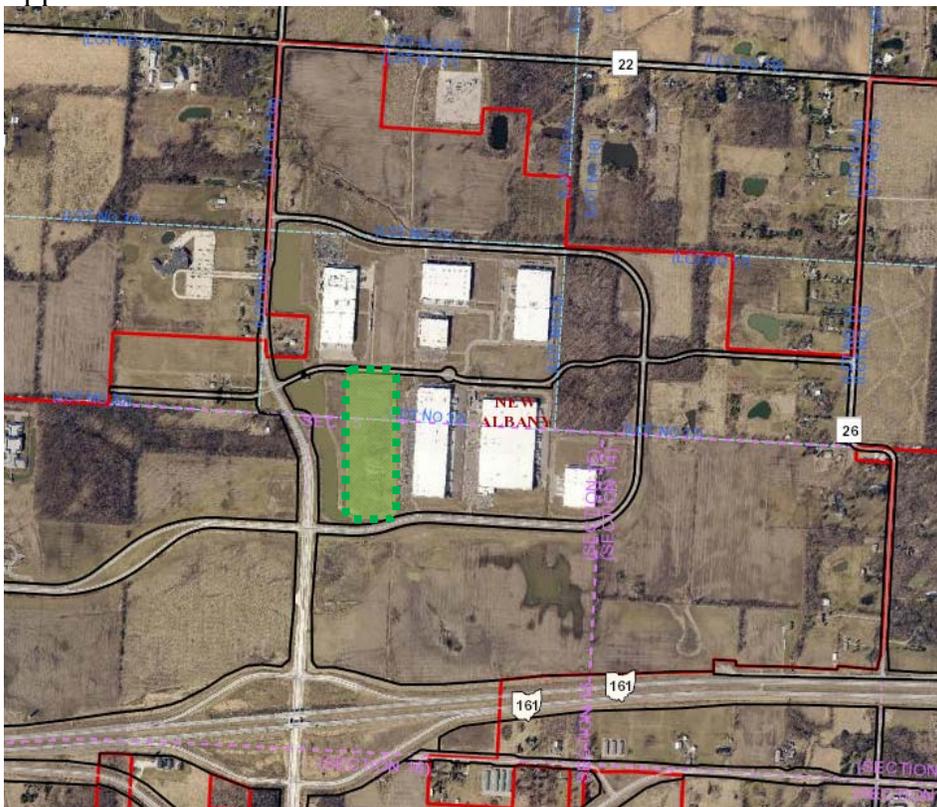
#### **V. ACTION**

In accordance with C.O. 1113.06, “Within thirty (30) days after the public hearing, the Board of Zoning Appeals shall either approve, approve with supplementary conditions, or disapprove the request for appeal or variance.” If the approval is with supplementary conditions, they should be in accordance with C.O. Section 1113.04. The decision and action on the application by the Board of Zoning Appeals is to be based on the code, application completeness, case standards established by the courts, and as applicable, consistency with city plans and studies.

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

**Move to approve the variance application V-25-2016.**

Approximate Site Location:



Source: Licking County Auditor (City Boundary in red and site in green).