



Planning Commission

Meeting Minutes

November 21, 2016

7:00 p.m.

New Albany Planning Commission met in regular session in the Council Chambers of Village Hall, 99 W Main Street and was called to order by Planning Commission Chair Neil Kirby by at 7:06 p.m.

Neil Kirby	Present
Brad Shockey	Present
David Wallace	Present
Bill Steele	Present
Mike Durik	Present
Sloan Spalding (council liaison)	Present

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

Mr. Wallace moved to approve as corrected October 17, 2016 meeting minutes, seconded by Mr. Steele. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Shockey, abstain; Mr. Steele, yea; Mr. Durik, yea. Yea, 4; Nay, 0; Abstain, 1. Motion passed by a 3-0 vote.

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

Mr. Mayer stated none.

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

Mr. Kirby's invited the public to speak on non-agenda related items and received no response.

Mr. Wallace moved to accept the staff reports and related documents in to the record, seconded by Mr. Durik. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Steele, yea; Mr. Shockey, yea; Mr. Durik, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

V-55-2016 Variance

Variance to Codified Ordinance Chapter 1173.02(e) to the fencing requirements for a private swimming pool at 7010 Lambton Park (PID: 222-002598).

Applicant: Richard Langdale

Mr. Mayer presented the staff report.

Mr. Ferris stated no engineering.

Mr. Rich Langdale stated at the last meeting we talked about finding the original permit, the permit process. They thought they had the appropriate variances at the time. We felt that we were told that a pool cover would be appropriate. Had we understood that at the time we would have installed fencing instead of the pool cover. We are looking for a variance for what we thought was approved before. We believe our variance is more similar to the variances approved in the Farms. We have a gate for our lot and it is completely separated from the rest of the community and the only access is the golf course which is not public.

Mr. Kirby stated that the variance is requested for as is and no additional items.

Mr. Langdale stated that we would like to build a pool house between our house and the empty lot.

Mr. Kirby asked if the pool house was in the approval process.

Mr. Langdale stated no, the pool is shut down for the year but we are still trying to get final plans and pricing.

Mr. Durik asked if fencing would also be included with the pool house.

Mr. Langdale stated that we were thinking that a combination of pool house and landscaping connecting to the existing fence.

Mr. Kirby asked if they had a detached garage.

Mr. Langdale stated no, the garage attached and showed on the map where the pool house and landscaping would be located.

Mr. Steele stated that we tabled the application in August so you could situate the pool house and we could see the pool house and landscaping.

Mr. Langdale stated that was correct but were not able to get all of that done and we were able to find the previous pool permit.

Ms. Paige Langdale stated that they also found what they thought was the original variance.

Mr. Kirby asked if this was part of the ARC review.

Mr. Langdale stated yes.

Mr. Kirby asked if the ARC has approved the pool house.

Mr. Langdale stated no.

Ms. Langdale stated that we have submitted two options over the years but have not followed through.

Mr. Kirby stated that we could add conditions that would involve 3rd parties that could deny and that puts you in the middle. Which we try to avoid.

Mr. Steele asked what the restrictions for fencing in regards to the stream.

Ms. Joly stated that the stream is the property line and I think it would be about 5 feet. We did share the landscaping plans for the Highgrove properties to show different options to the Langdales.

Mr. Kirby stated that all other variances have included enclosing the pool with fencing or landscaping.

Ms. Joly stated that Roberto's are choosing to install fencing that will connect to the house instead of landscaping surrounding the pool.

Mr. Durik asked if it will also include sufficient landscaping.

Ms. Joly stated that additional layering in addition to the horse fence.

Ms. Langdale stated that our lot is different than the Highgrove properties. It's not comparable the size of the lots, distance to the street and sidewalks. Even the Roberto property has a sidewalk.

Mr. Spalding asked if the pool cover was automatic.

Ms. Langdale yes

Mr. Spalding asked how long has the pool cover has been there.

Ms. Langdale stated almost 10 years.

Mr. Spalding asked if it has a warranty period.

Ms. Langdale stated that Jim Turner installed the pool and services it weekly.

Mr. Spalding stated that one concern that has arisen is that the pool cover needs to be operational to work and we are not sure the warranty period.

Mr. Steele asked as someone coming from the golf course how wide is the stream at the narrowest part.

Mr. Langdale stated that the creek is about 3-5' at the narrowest. Fence does not connect to the creek.

Mr. Kirby asked if the waterway is public.

Mr. Banchefsky stated that he is not sure and would need to look into that.

Mr. Kirby stated that he has heard that the creek itself is public access.

Ms. Langdale stated that it is not public access because the golf course states golf carts only. People sometimes walk their dogs but it's rare.

Mr. Durik stated (using a map) that this area is very difficult to access because it is heavily wooded but there is an area that is wide open and would be easily accessible.

Mr. Kirby made a motion (Shown below)

Mr. Steele asked after Mr. Wallace voted if the motion included the staff conditions.

Mr. Kirby asked the applicants opinion of the conditions in the staff report.

Mr. Langdale stated that they are asking for a variance without the conditions. If you say no, we would further come back.

Ms. Langdale stated that we were asking because the Farms had variances approved that we believe are more similar to our property.

Mr. Kirby thanked the applicant and stated that the motion is without conditions. Asked the clerk to continue the roll call.

Mr. Wallace continue with his reasoning for his vote.

Mr. Kirby moved to approve V-55-2016, seconded by Mr. Wallace. Upon roll call vote: Mr. Kirby, no; because all of the other variances in this set have had a surrounding perimeter barrier; Mr. Wallace, no; same as Kirby and I don't think the pool cover itself is an equivalent safety feature as required by code. I believe the property will yield a reasonable return without the variance, the property owner was aware of the restrictions when purchased and that the other applicants have submitted with plans that met the spirit of the intent; Mr. Shockey, yes; Mr. Steele, no; because the pool cover negates some risk but the variances that were approved had significant screening through landscaping or other factors; Mr. Durik, no; for many of the reasons stated. Yea, 1; Nay, 4; Abstain, 0. Motion failed by a 1-4 vote.

V-77-2016 Variance

Variance to Codified Ordinance Chapter 1165.06(c) (1) (B) to the location requirements for a detached garage at 7290 Waterston within the New Albany Country Club (PID: 222-003457).

Applicant: Todd Parker, F5 Design

Mr. Mayer presented the staff report.

Mr. Kirby asked if they attached the garage to the house by a wall or roof, would we be here for a variance.

Mr. Mayer stated that it would be reviewed as part of the primary house and it could be more restrictive.

Mr. Kirby asked if we know if the setbacks are different for the primary structure and a detached garage.

Mr. Todd Parker, F-5 Design, stated that this is a different variance because it is an internal setback. The rear yard setback if it was attached would be 30'. The garage itself meets the rest of the code section.

Mr. Kirby asked if they have ARC approval.

Mr. Parker stated yes.

Mr. Kirby asked if the neighbors were notified.

Mr. Parker stated that the neighbors were notified legally. I don't think anyone had concerns. The neighbor to the north has a hedge row and we will be extending the hedge row if necessary.

Mr. Wallace asked if it was an empty lot behind them.

Mr. Parker stated that it is a large lot that fronts Stannage.

Mr. Steele asked what the structure was on the next door lot in the aerial picture.

Mr. Parker stated that it was a patio.

Mr. Wallace asked if the homeowner had any conversations with the neighbors.

Homeowner from audience stated that he spoke to one neighbor and they were fine.

Mr. Wallace stated that his only concern was that it is narrow and adding a structure seems out of character. Do we have information on the previous variance that was granted in this neighborhood?

Mr. Mayer showed on the map the location and stated that the variance was for the garage to be in front of the house and closer to house.

Mr. Kirby stated that it looks right and placed right but this is precedent setting. He asked the homeowner to come to the microphone.

Mr. Adam Zochowski stated that Chelsea & Tucker Day live next door and asked them because it would impact their property the most and the other gentleman has screening in the back and wouldn't impact them too much since they don't spend much time outside. I didn't visit the other neighbor because he would need to be on the corner of his property to see it.

Mr. Kirby stated that he just wanted it on the record.

Mr. Wallace summarized using the map that this neighbor said what.

Mr. Zochowski stated that they said everything was fine.

Mr. Wallace verified that the neighbor to the rear you didn't speak with and the neighbor to the other side you didn't speak to.

Ms. Joly stated that this section of code will be reviewed this winter by staff. This part is in our general development standards. There are multiple structures and standards that it calls out and not always a clear intent. For example, a deck can be 5' from a property line but a paver patio at grade needs to be 20' from the rear yard. We regulate the distance from the property lines do we need to regulate the distance between the structures.

Mr. Kirby stated that he applauds the fact that they are meeting the setbacks and this is a variance against themselves.

Mr. Wallace stated that I believe that the other variance was brought to us during construction. When we start adding stuff to existing structures. I don't think this neighborhood was intended to be like the Ealy neighborhood. It has the third car garage stuck in odd places and has a more urban feel with fencing along the street. One factor that we are supposed to consider is whether the essential character of the neighborhood will be altered. Even when you say substantial character is hard to define.

Ms. Joly stated that it is difficult to have a code that addresses these type of lots and the type of community the country club. Sometimes you could meet the code but still be out of character with the neighborhood in scale and size. You would be out of character if you just met our zoning code.

Mr. Kirby asked if they were the original homeowner.

Mr. Zochowski stated yes.

Mr. Steele asked if ARC has approved and if they thought it would impaired the aesthetics of the community they would not have approved it.

Mr. Parker stated yes. I forgot about this section of code. We revised the plans to make it fit and it was out of proportion which is why we are here.

Mr. Wallace stated that's why we need to do this at the beginning instead of adding on at the end. I think the house design would have been different if a four car garage was the initial plan.

Mr. Zochowski stated that this was built in 2008 as a spec home for someone else but due to issues we were the first owners of the home. Many years later, we could park in the street but we can only park on one side and with the grounds crew.

Mr. Steele moved to approve V-77-16, seconded by Mr. Durik. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, no; Mr. Shockey, yea; Mr. Steele, yea; Mr. Durik, yea. Yea, 4; Nay, 1; Abstain, 0. Motion passed by a 4-1 vote.

Mr. Wallace stated that he voted no due to the reasons stated previously.

V-78-2016 Variance

**Variances to Codified Ordinance Chapter 1165.06(c)(1)(D)(4) to the size requirements and zoning text's roof and wall material requirements for a detached garage at 15 Highgrove within the New Albany Country Club (PID: 222-004497).
Applicant: Todd Parker, F5 Design**

Mr. Mayer presented the staff report.

Mr. Durik asked if this is a gated entry.

Mr. Parker stated that is the plan.

Ms. Joly stated that there is nothing that would prohibit gated a private driveway.

Mr. Kirby confirmed that they have access to the right of way. Do you have ARC approval?

Mr. Parker stated correct.

Mr. Kirby asked if the property closest to the barn has been sold.

Mr. Parker stated no that he is aware of.

Mr. Tom Rubey stated no.

Mr. Kirby asked Mr. Rubey if he would like to comment as the nearest property owner.

Mr. Rubey stated that he likes the plans and meets setback requirements and height.

Mr. Kirby asked if it would hinder the sale of the closest lot.

Mr. Rubey stated that we took a lot of time to look at this when the property owner came to us. We looked at setbacks requirements and landscaping that will help buffer.

Mr. Kirby asked if the lot next door is sufficient size that they will have flexibility for placement.

Mr. Rubey stated yes; the views for that lot are to the north and west to the creek. The front door will face south and east and back door north and west.

Mr. Steele asked if there were still three separate lots we would have at least 2400 square feet of garage.

Mr. Wallace used the map to confirm the location of the garage.

Mr. Steele stated preservation zone is located on that side.

Mr. Parker stated yes; north side.

Mr. Kirby stated that the variance is for square footage, material and multiple detached garages.

Mr. Steele stated that somewhere it stated that this will be the pool house, car barn and greenhouse.

Mr. Parker stated that the greenhouse will now be attached to the main house and is not part of this plan.

Mr. Steele stated that I know there is a pool planned and I do not see any fencing.

Mr. Parker stated that we will put fencing around it. He continued that the reason that the materials don't match the house is because it is a barn structure. We will paint it white to match the house.

Mr. Steele asked if the material will be consistent in Ebrington.

Mr. Parker stated that siding can be used on accessory parts. He stated that a house is already under construction that will use a mixture of board and batten and siding.

Mr. Shockey asked how many cars will be parked inside. Does the ceiling height have storage?

Mr. Parker stated yes it will have room for storage.

Mr. Shockey asked if building code will require a makeup exhaust area.

Mr. Parker stated that he didn't know.

Mr. Shockey stated that it is an appropriate questions to ask due to the size. I dealt with a commercial property and we were required to put in makeup air and exhaust as a precaution.

Mr. Parker stated that if needed, we will put it on the north side.

Mr. Kirby stated that pointing the exhaust to the smallest setback might not be popular.

Mr. Shockey stated that I wanted to bring it up since it's related to size.

Mr. Parker stated that for residential barns, I have never had to do it.

Mr. Kirby stated that we may want to add a condition that the exhaust point north.

Mr. Kirby asked why we have these numbers, such as 800sf.

Ms. Joly stated that we don't have.

Mr. Kirby asked how many cars is an 800sf garage.

Mr. Parker stated that it's about a 2.5 car garage.

Ms. Joly stated that it is part of the analysis that needs done. What are the major variances, what is the rational basis behind them, can we simply, how do we test these. That's an analysis that we would like do and bring a code change to the commission next year.

Mr. Kirby stated that we have a one size fits all issue. In other neighborhood within a mile, this may not be an option but here they have the room.

Ms. Joly asked if we are trying to regulate too many things. Can we get the same outcome with lot coverage? We need to look at what the intent is and are we regulating it to achieve those goals.

Mr. Kirby if we can approve variances without the Duncan factors. He stated that what we are supposed to evaluate on and the practices of the village differ.

Ms. Joly stated that maybe we need to do waivers instead of variances.

Mr. Shockey asked if this is relative to this application.

Mr. Kirby stated that it is a little bit to this one but also our process.

Mr. Steele stated that there are other things on this site plan that are not being approved tonight. I don't want to be held to this site plan.

Mr. Parker stated that tonight we just want the barn approved. I have worked very closely with staff and the other items will not need variances.

Mr. Wallace stated that the variances are arising from impossibility situations. That is not what we are having here in most of these variances. The factors have some relevance. The factors that I have focused on are the health and safety, character and self inflicted factors. This is an unusual variance for me because my sense is that most of the criteria fit because of the unique nature of this lot in this part of the country club community.

Mr. Wallace moved to approve V-78-16 subject to the condition that the detailing of the proposed car barn will be refined as to conform to the detailing of the current main house, subject to staff approval, seconded by Mr. Steele. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Shockey, yea; Mr. Steele, yea; Mr. Durik, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

ZC-84-2016 Zoning Change

Rezoning 546.3 ± acres of land located generally located on the east and west sides of Beech Road, south of State Route 161 and north of Morse Road for an area to be known as “Beech Road South Zoning District” from its current zoning of “AG” Agricultural to “L-GE” Limited General Employment (PID: 094-107502-00.000, 094-106926-00.002, 094-106686-00.000, 094-106860-00.000, 094-106860-0.001, 094-106404-06.000, 094-106404-04.000, 094-106404-02.000, 094-106932-01.000, 094-106926-00.000, 094-106674-00.000, 094-106860-00.002, 094-106860-00.004, 094-106404-05.000, 094-106404-02.001, 094-106860-00.003)

Applicant: MBJ Holdings c/o Aaron Underhill Esq.

Mr. Mayer presented the staff report.

Mr. Steele confirmed that a 50' building and pavement setback along all residential.

Mr. Mayer stated yes, and showed on the map.

Mr. Kirby stated that Mr. Steele stated zoning that allows residential and you said residential zoning which is different. AG is the big deal because working farms are allowed a residence but they are not residential zoning.

Mr. Mayer stated that text states where zoning permits residential uses and includes AG. He continued with staff report.

Mr. Ferris presented engineering comments.

Mr. Aaron Underhill stated that this is the last remaining large piece that needs rezoned. We are trying to continue with what we have done and tried to take all the lessons learned. Trying to treat the residents as we have on the recent rezoning. We have enhanced the setbacks and have screening requirements. We don't have any one ready to purchase or development this area but do receive inquiries for large sites.

Mr. Kirby asked if he agreed with all comments.

Mr. Underhill stated yes.

Mr. Kirby asked if Beech Road has improvements planned to accommodate traffic.

Mr. Underhill stated that we believe so. We have a preliminary traffic study that has not been submitted to the city at this time. We agree to the engineering comments.

Mr. Kirby asked who pays for the widening of the road.

Ms. Joly stated that it depends on if there is an economic development prospect. It's hard until we have a use so we know the traffic impact will be. We have even talked about a scenario with multiple streets out here.

Mr. Durik asked if the traffic study would include Morse Road.

Mr. Underhill stated yes.

Mr. Steele asked if item #4 on page 1 of 9 is it referring to the public streets in this area. Do we need to change wording to any streets?

Mr. Underhill stated yes.

Mr. Shockey asked if this is the same sewer.

Mr. Underhill yes. We are bringing the zoning down to the edge of where the city is able to serve.

Mr. Kirby asked if it was an elevation issue.

Ms. Joly stated that it the water & sewer agreement.

Mr. Kirby stated that it will touch Pataskala and Jefferson Township which do not use Columbus water. Who pays for the road?

Ms. Joly it is to be determined.

Mr. Kirby stated that they don't need to lay any groundwork yet.

Ms. Joly stated that the study is the groundwork.

Mr. Underhill stated that Planning Commission would see road plats.

Mr. Kirby asked if it they can go further east.

Mr. Underhill stated that we may go a little further east.

Ms. Joly stated that we would able to go a little further east based on the latest 208 planning boundary with the Ohio EPA.

Mr. Kirby stated that it could define our boundary.

Ms. Joly stated that Western Licking County Accord is hoping to determine uses and design standards for the joint borders.

Mr. Kirby asked if others know what the 208 line is.

Ms. Joly explained that the Ohio EPA has district that are used for planning for water, sewer, and utilities called 208 planning boundaries. That determines who has the authority to expand water & sewer services. The vast majority of New Albany is within the Columbus 208 boundary. There is a very small portion that is could come from Columbus or Southwest Licking which is a little to the east of this rezoning.

Ms. Penny Adams, 3487 Dixon Road, stated that she is not for this. This is a residential area. Bringing more commercial property encroaches upon this residential area. I drive through Beech Road all the time and I'm going to feel a

deep loss seeing all the houses gone. It going to change the entire area. It's already done that north of SR 161. It's no longer agricultural or pretty. Big box buildings. I know I'm late in the game but I didn't know about this until now.

Mr. Wallace moved to recommend to Council approval of ZC-84-16 subject to the following conditions:

1. The zoning text is revised to include the recommended changes as discussed in this staff report as contained in the text dated November 8, 2016.
2. Section C4 of the limitation text is amended to delete the word public.
3. Engineering Comments are addressed, seconded by Mr. Steele. Upon roll call vote: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Shockey, yea; Mr. Steele, yea; Mr. Durik, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Mr. Shockey asked if we could further discuss the comments Mr. Kirby was making.

Mr. Kirby stated about the how and why we do variances.

Mr. Shockey stated that we are being lead into quite a few variance applications. We heard many of those at BZA. The BZA is made to hear these types of variances. I remember that I have heard that variance is because of text. Pool cover was that a text. I think there is a better board. I don't think we need to hear all of these.

Ms. Joly stated that we have a zoning code and multiple zoning texts. Some of the zoning text state that all variances shall go to Planning Commission. I believe that intent was that this body approved the zoning text so they should review the variances.

Mr. Shockey stated that many zoning texts refer back to codified ordinance not always something we created.

Ms. Joly stated that more texts refer back to the geography of the zoning district. I would love to find a different way to do this. It gets even more complicated if for example the car barn had 2 variances from the zoning text and 1 from codified ordinance. We don't want to make people go to two different boards for one approval.

Mr. Kirby stated that I don't mind this board hearing the variances.

Mr. Shockey stated that sometimes a PUD variance could be steps that are too close to the sidewalk. That would be a simple variance that BZA could hear.

Ms. Joly stated that we need to be careful about the need to go to multiple boards and then staff interpretation of which board needs to hear it.

Mr. Shockey stated that this board will get bogged down with the little things as the village grows. We won't have the time to spend on the items that we need to.

Ms. Joly stated that we have these zoning texts that already exist that requires this process. We want to be careful to avoid someone going to two boards and staff making judgement calls.

Mr. Shockey stated that if we could have a class 1 and class 2.

Ms. Joly stated that some city don't have BZA. Planning Commissions absorbs all the functions. They have an agenda that is quasi-judicial and then legislative.

Mr. Kirby stated that the Duncan factors needs reviewed. The practice and the standards don't match.

Ms. Joly stated that once we have an idea of the most common variances we would workshop once some research is complete.

Mr. Wallace stated that I think we had this discussion a few years again. I feel like this it cycles.

Mr. Shockey stated that I have seen many of these things at BZA and now PC.

Mr. Durik stated detached garage a few months ago on BZA and now detached garage on PC.

Mr. Steele stated that I think we need a workshop. Should we require ARC approval prior to the variance?

Mr. Kirby asked if we can require ARC approval in advance.

Ms. Joly stated that we have tried and needed to back off. Our strong recommendation is that you get ARC approval but I don't think we can require it.

Mr. Banchefsky stated that it is irrelevant to us.

With no further business, Mr. Kirby polled members for comment and hearing none, adjourned the meeting at 8:47 p.m.

Submitted by Pam Hickok



**Planning Commission Staff Report
November 21, 2016 Meeting**

**7010 LAMBTON PARK
POOL FENCE VARIANCE**

LOCATION: 7010 Lambton Park (PID: 222-002598)
APPLICANT: Rich & Paige Langdale
REQUEST: Variance to Codified Ordinance Chapter 1173.02(e) to the fencing requirements for a private swimming pool
STRATEGIC PLAN: Rural Estate Residential District
ZONING: C-PUD (1998 NACO C-PUD, Subarea 1b: Edgemont)
APPLICATION: V-55-2016

Review based on: Application materials received June 22, 2016.

Staff report prepared by Stephen Mayer, Community Development Planner.

I. REQUEST AND BACKGROUND

The Planning Commission tabled this application for three months on August 15, 2016. At this meeting the applicant stated they are considering building a pool house on the property. The Planning Commission provided three months to allow the applicant to consider where a pool house and fencing could be installed. Previously, the Planning Commission tabled this application on July 18, 2016 because the applicant was not present at the meeting.

Staff has not received any new documents or plans from the applicant to include this in this staff report at its publishing. Updated sections of this staff report are underlined.

The applicant requests a variance from C.O. Section 1173.02(e) Private Swimming Pools relating to the requirement that any private swimming pool, or the property on which the pool is located, shall be enclosed by a wall or fence constructed so as to prevent uncontrolled access. Such wall or fence shall be of such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such fence or barrier. Such wall or fence shall not be less than forty-eight (48) inches in height, maintained in good condition by the property owner, and affixed with an operable gate and lock.

The city law director has previously advised that the Planning Commission must evaluate this application exclusively based upon the provisions and criteria generally set

forth in the City Zoning Code as relates to variances (Chapter 1113), and the specific provisions contained within Section 1173.02(e) regarding private swimming pool fences.

Per the PUD zoning text variances shall be heard by the Planning Commission.

II. SITE DESCRIPTION & USE

The site is 7.414 acres with a single family home. The lot is within the New Albany Country Club. The property is located near the northeast corner of Waterston and Lambton Park Road. The house is one of three large lots along the north side of Lambton Park Road. The neighboring properties consist of the golf course to the north and east, and single-family homes constructed to the south and west.

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 standards for granting of a 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 a variance:

All of the factors should be considered and no single factor is dispositive. The key to whether a 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. FACTS

Considerations and Basis for Decision

The following information in addition to application submittal information and meeting presentations and discussions should be considered in the Planning Commission's decision for the requested variance:

- At the July 18, 2016 meeting, the Planning Commission requested information regarding if the pool has an automatic cover. Staff verbally confirmed with the applicant the pool has an automatic pool cover installed.
- This pool's fence was brought to the attention of staff during the variance hearing of another pool fence variance application at 6958 Lambton Park Road.
- The city's permit tracking software shows a pool permit was issued in 2006. However, due to the city's records retention policy the plans have since been destroyed.
- Codified Ordinance Section 1173.02(e) requires that any private swimming pool, or the property on which the pool is located, shall be enclosed by a wall or fence constructed so as to prevent uncontrolled access. Such wall or fence shall be of such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such fence or barrier. Such wall or fence shall not be less than forty-eight (48) inches in height, maintained in good condition by the property owner, and affixed with an operable gate and lock.
- The city's pool and fence code does not prescribe any particular style or type of fence other than saying such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such fence or barrier.
- The pool is located at the rear of the home, between the house and the New Albany Country Club golf course.
- The parcel has a 44" high 3-rail horse fence along the rear property line separating the house and golf course. There does not appear to be any other fencing around the property.
- The property to the west is currently vacant and contains several large tree masses.
- This parcel is one of the largest in the Country Club subdivision resulting in the pool being located greater distances from other residential properties and public

roads. The pool is approximately 495 feet from Lambton Park Road, 85 feet from the western property line, and 61 feet from the eastern property line bordering the golf course.

- The applicant proposes to continue to use an automatic pool safety cover. No specifications on the pool cover have been submitted other than a picture showing a person standing on the pool cover. This may be similar to a pool cover the BZA approved in-lieu of a fence at 6958 Lambton Park, and 10 and 14 New Albany Farms. Pool covers are recognized by some building codes as an appropriate method to secure a pool. However the city has not adopted a code that allows the use of covers. The city's private swimming pool ordinance regulates the construction of private pools within the city and requires a 4-foot fence affixed with an operable gate and lock.
- The lot is larger than the majority of the parcels in and around the New Albany Country Club subdivision. This lot is approximately 7.4 acres while the vast majority of the lot sizes in the Country Club subdivision are under one acre.
- The applicant's narrative states the pool was properly inspected and approved. Staff's records does not indicate such
- It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a "substantial detriment." The pool appears to be screened from the public right-of-way, but does clear sight lines to the golf course. The pool has been constructed for approximately 10 years. There are some tree masses to the west but it is unclear how much of them are on the applicant's property.

V. HISTORY

There have been several similar applications heard by either the Board of Zoning Appeals or the Planning Commission since 2007.

- The BZA denied a variance to allow a pool cover for a residence on 15.6 acres in Illmington in 2007. The BZA cited safety and liability concerns as reasons for denying the variance request.
- The BZA denied a variance to allow a pool cover in 2010 for a home on a 0.5 acre parcel in Fenway. The BZA cited safety and liability concerns as reasons for denying the variance request.
- The BZA approved a variance to allow a pool cover in-lieu of a fence on May 28, 2014 for 14 New Albany Farms Road. The BZA stated the size of the property (19.9 acres), proximity to other parcels and limited access due to private streets creates special conditions and circumstances which are peculiar to the land that results in a general isolation from neighbors. The parcel at 14 New Albany Farms is one of the largest in the gated Farms subdivision resulting in the pool being located a much greater distance from the parcel lines and roads. For this reason the BZA approved the variance while stating some homes may be too close to each other for a pool cover.
- The BZA approved a variance to allow a pool cover in-lieu of a fence on September 22, 2014 for 6 New Albany Farms Road. The BZA stated this lot having heavy woods on three sides of the property results in a general isolation from neighbors and being within the Farms community which is gated and has

private streets creates special conditions and circumstances which are peculiar to the land.

- The PC approved a variance to allow a pool cover in-lieu of a fence that meets code requirements on April 18, 2016 for 6958 Lambton Park Road. Members voting in favor of the variance noted that with conditions of approval the variance preserves the spirit and intent of the zoning ordinance, appears to have limited access due to the private golf course, substantial screening, horse fence, the property's size and lack of neighbors create special circumstances, and having an annually certified pool cover. Members voting against the variance noted this is because there is not a condition requiring code compliant fencing along Johnstown Road and lack of evidence that pool covers have the same safety record as fences, and this is substantial because it affects the health and safety in the community. The conditions of approval are:
 - An automatic safety pool cover is installed that is ASTM compliant as and if amended.
 - The pool area is fully enclosed by a house, fence, or wall.
 - The existing 54" and 44" horse fence counts towards the enclosure of the pool.
 - The new fence installed must meet the new proposed pool code requirements that the Planning Commission recommended approval of on April 18th.
 - The pool cover is certified annually by the homeowner.
- The PC approved a variance to allow landscaping and pool netting in -lieu of a fence that meets code requirements on October 17, 2016 for 10 and 11 Highgrove. Members voting in favor of the variance noted that with conditions of approval the variance preserves the spirit and intent of the zoning ordinance, appears to have limited access due to the private golf course, substantial screening, horse fence, the property owners' stated they intend is to use the pool net when the pool is not in use with adult supervision, and having an annually certified pool net. Members voting against the variance noted this is because the property would have a reasonable return without the variance, believes variance is substantial, essential character of neighborhood would not change, property owners were aware of the restrictions, original permit showed code complaint fence and was not installed per approved plan. Finally, the applicant did not prove pool netting is as safe as a fence. The conditions of approval are:
 - Landscaping approved by ARC and staff to include original and tonight's submissions.
 - Commitment to install boxwoods or gates at all openings.
 - Pool netting or hard cover ASTM compliant installed at all times when not in use and not attended by a responsible adult.
 - Applicant maintains landscaping and new plantings.
 - The pool netting is certified annually by the homeowners for function.
 - Hard cover installed by 11/1/16 and not removed until in compliance.
 - The applicant provide a copy of the easement to permit homeowner to maintain the fence in the event the NACO does not

VI.EVALUATION

Through several pool barrier variance applications city staff, the Board of Zoning Appeals and Planning Commission have had to weigh the importance of many factors in coming to decisions on the applications. Some of the factors stated on the record are proximity of the property to other residences, public accessibility to the property and the effectiveness of a pool cover in providing safety.

The variances within the New Albany Farms subdivision were approved because the BZA stated the gated community with private streets, the large size of the properties and proximity to other parcels create special conditions and circumstances which are peculiar to the land that results in a general isolation from neighbors. Both applications included the installation of a powered automatic safety cover.

Another application on Lambton Park shared some, but not all, of the property characteristics with the previously approved variances. Due to the property's location along public streets, the Planning Commission paid special attention to characteristics of the property that have the effect of limiting public access. Additional information related to the technical standards and operational concerns of pool covers was also presented. The variance was approved by a 3-1 vote with several conditions of approval. Some of the factors that were discussed with the motion included:

- The property appears to have limited access due to the private golf course and lack of a rear neighbor,
- Substantial mounding, landscaping, horse fence and the property's size impede public access, and
- The applicant proposed an ASTM compliant pool cover which the homeowner agreed to certify annually.

The same request for homes at 10 and 11 Highgrove were recently approved and contain the same circumstances as listed above. Some of the factors that were discussed with the motion included:

- The property appears to have limited access due to the private golf course and lack of a rear neighbor,
- Substantial landscaping, horse fence and the property being located on a cul-de-sac impede public access, and
- The applicant proposed an ASTM compliant pool net which the homeowners agreed to certify annually and install when the pool is not in use.

Although this property is not located within the Farms community there are similarities between this property and the homes at 6 and 14 New Albany Farms, 10 and 11 Highgrove, and the home at 6958 Lambton Park in terms of limited proximity and access. This lot is unique from other homes in the New Albany Country Club due to size and number of neighbors. The parcel is one of the largest in the New Albany Country Club and is essentially triangle-shaped with golf course on two sides and an undeveloped lot on the third side. A creek also separates the parcel from the golf course on the east side. While there are clear sight lines from the pool to the golf course, the majority of the pool and home is screened with a substantial amount of large trees. The home and pool appear to be completely screened from Lambton Park Road. Staff believes these are factors related to this parcel that help to prevent

uncontrolled access and therefore not adversely affect the public safety of those residing or working in the vicinity similar to 6958 Lambton Park. One difference from 6958 Lambton Park is that the pool at 6958 was located right in the middle of the property creating large setbacks on all four sides of the pool, however, this pool at 7010 is located closer to the golf course and contains less screening. Additionally, 6958 is required to install a fence that meets code requirements where there isn't existing horse fence (the side property lines). This property contains fencing only along the golf course.

VII. RECOMMENDATION

The purpose of a variance hearing is to evaluate specific factors related to an applicant's request. Although the property is comparable to recently approved applications, staff cannot support the request as submitted. The location along a private golf course, size of the parcel and isolation of the property satisfy the proximity and access factors that have been important in other past variances. However, it doesn't contain all the elements that have been required of recently approved variances. The golf course property line does not contain an amount of mounding or landscaping to prevent access. Nor does the area immediately surrounding the pool contain the boxwood hedges that were proposed and included as part of the approval for the Highgrove variances. It appears that mounding and/or landscaping could be installed to make this proposal more consistent with other recently approved variances. Also fencing to limit access from neighboring lots does not exist. Due to the unique configuration of the lot with a potential neighbor on only one side and the substantial woods on the property, it seems as fencing could only be installed on the west property line to secure access. The presence of a pool cover is an important factor to ensure safety. If additional measures, such as landscaping and a side property line fence, were included in the request, the application would be more closely aligned with other similar applications.

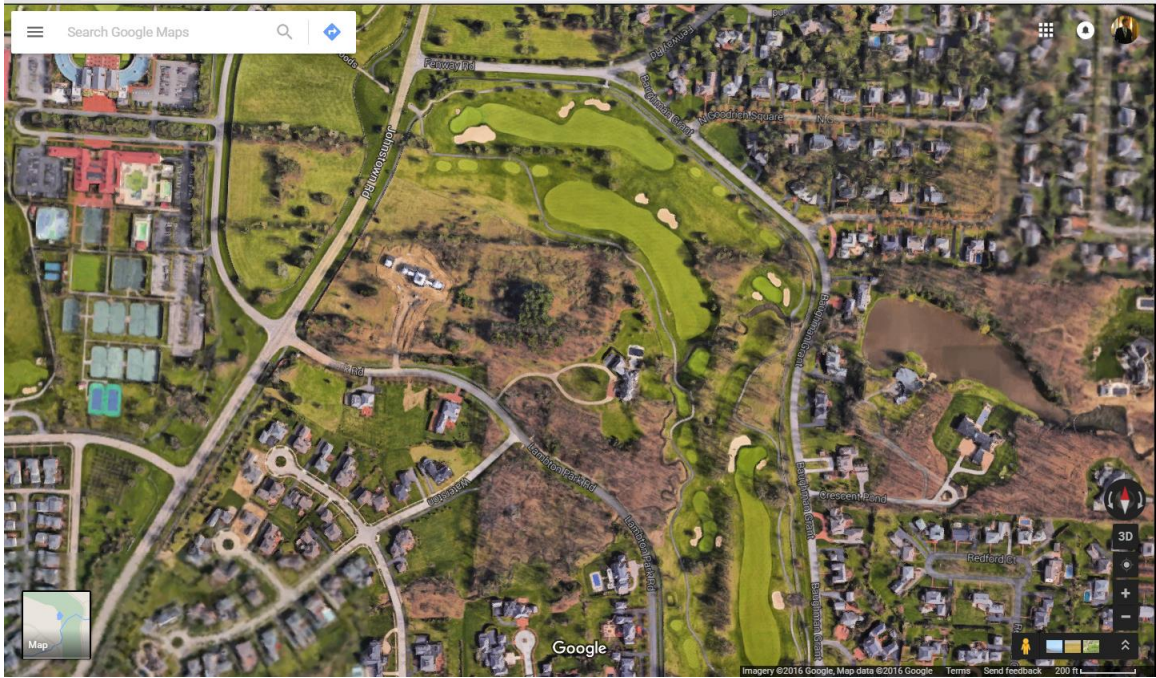
VIII. ACTION

Should the Planning Commission find that the application has sufficient basis for approval, the following motion would be appropriate:

Move to approve variance application V-55-2016 based on the findings in the staff report with the following condition(s) of approval:

1. Continuous and uninterrupted mounding and/or landscaping are installed along the golf course property line and/or immediately surrounding the pool area that will prevent access.
2. Code compliant fencing is installed along the western side property line to tie into the horse fence.
3. The pool cover is certified annually by the homeowner.

Approximate Site Location:





**Planning Commission Staff Report
November 21, 2016 Meeting**

**7290 WATERSTON
DETACHED GARAGE VARIANCE**

LOCATION: 7290 Waterston Drive (PID: 222-003457)
APPLICANT: Todd Parker, F5 Design/Architecture
REQUEST: Variance to Codified Ordinance Chapter 1165.06(c) to allow a detached garage to be built less than 10' from the main dwelling unit.
ZONING: Infill Planned Unit Development
STRATEGIC PLAN: Neighborhood Residential District
APPLICATION: V-77-2016

Review based on: Application materials received September 23, 2016

Staff report prepared by Jackie Russell, Community Development Clerk.

IV. REQUEST AND BACKGROUND

The applicant proposes to construct a detached garage at the site and is requesting the following variances:

- A. Codified Ordinance Chapter 1165.06(c)(1)(B) to allow a detached garage to be built at 7'-10" away from the primary dwelling where code requires 10'-0".

Per the I-PUD zoning text variances shall be heard by the Planning Commission.

V. SITE DESCRIPTION & USE

A single family home was constructed on the parcel in 2007 and is located within New Albany Country Club Section 17. This property is approximately 0.34 acres and is located at the north side of Waterston west of Stannage Close and east of Croan. Surrounding land uses include residential.

VI. 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.

13. *Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.*
14. *Whether the variance is substantial.*
15. *Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment.”*
16. *Whether the variance would adversely affect the delivery of government services.*
17. *Whether the property owner purchased the property with knowledge of the zoning restriction.*
18. *Whether the problem can be solved by some manner other than the granting of a variance.*
19. *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*):

20. *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.*
21. *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.*
22. *That the special conditions and circumstances do not result from the action of the applicant.*
23. *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.*
24. *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.*

III. RECOMMENDATION

Considerations and Basis for Decision

A. Variance to Codified Ordinance Chapter 1165.06(c)(1)(B) to allow a detached garage to be 7'-10" away from the primary dwelling where code requires a minimum distance of 10 feet.

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

1. The I-PUD zoning text does not contain setback standards for garages along adjoining properties, therefore Codified Ordinance 11.65.06 apply.
2. Codified Ordinance 1165.06(c) states that a garage shall be at least ten feet (10') from any lot lines of adjoining lots and shall not occupy any easement.
3. The proposed garage meets this code section as it is proposed to be located 10'

- 3/8" from the adjoining lot to the west, 10' from the adjoining lot to the north and is not located within an easement.
4. Codified Ordinance Section 1165.06(c)(1)(B) states the garage shall be distant at least ten feet (10') from any dwelling situated on the same lot.
 5. The applicant proposes to place a detached garage 7' 10 away from the dwelling unit.
 6. The property is zoned I-PUD with an underlying zoning of R-1 (Residential Estate District). Both the PUD and R-1 zoning district do not contain any lot coverage requirements. Including the proposed detached garage, the lot currently has 18% lot coverage.
 7. The request does not seem to be substantial since the variance is to a setback from the homeowner's own residence and meets all the setback requirements from adjoining properties.
 8. The applicant indicates that the exterior materials and paint colors match the existing garage.
 9. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a "substantial detriment" because the variance will only impact the applicant.
 10. The detached garage appears to be an appropriate scale and design given the size of the primary residence. In addition, other properties on Waterston have similar designed detached garages.
 11. It appears that granting the variance will not adversely affect the health and safety of persons residing in the vicinity.
 12. It appears granting the variance will not adversely affect the delivery of government services.

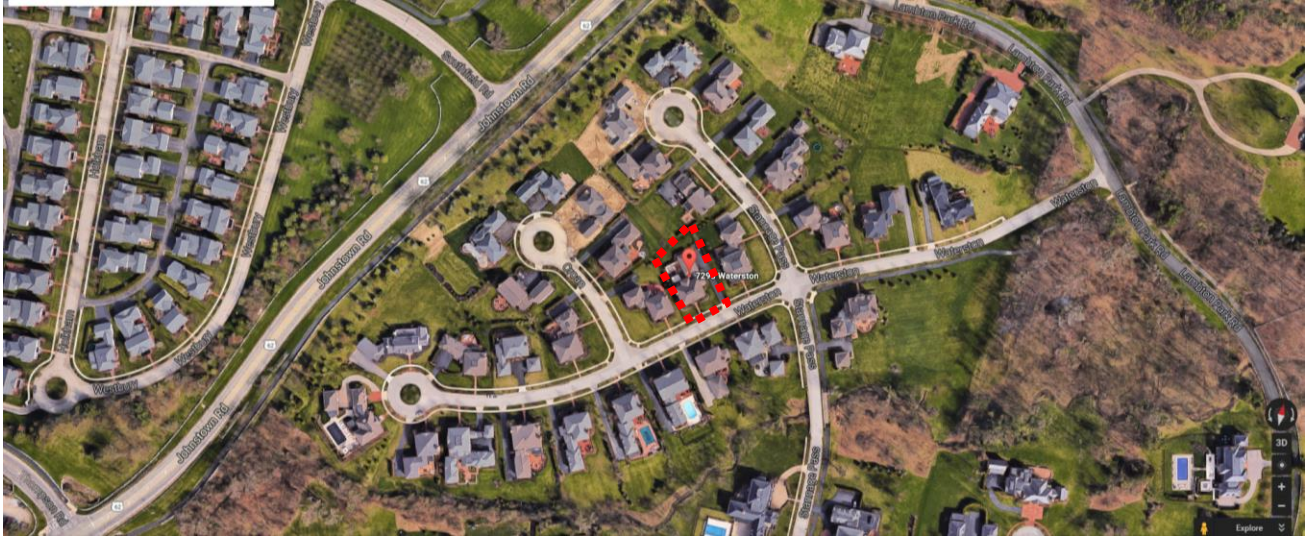
In summary, all the variance request does not appear to be substantial since the variance is to a setback from the homeowner's own residence and meets all the setback requirements from adjoining properties. The detached garage is situated appropriately within the code required setbacks for adjoining lots and meets all other design criteria. In addition, it is designed to be an appropriate size for the property and proximity to the main dwelling unit given the scale of the primary residence. .

V. ACTION

Should the Planning Commission find that the application has sufficient basis for approval, the following motions would be appropriate (conditions of approval may be added):

Move to approve application V-77-2016 based on the findings in the staff report.

Approximate Site Location:



Source: Google Maps



**Planning Commission Staff Report
November 21, 2016 Meeting**

**15 HIGHGROVE
POOL FENCE VARIANCE**

LOCATION: 15 Highgrove (PID: 222-004497)
APPLICANT: Todd Parker, F5 Design/Architecture
REQUEST: A. Variance to Codified Ordinance Chapter 1165.06(a) to allow a detached garage to be 1,900 square feet in area where code allows a maximum of 800;
B. Variance to Zoning Text section 6(d)(viii)(aa) to allow a detached garage to have different wall and roof material from the home.
C. Codified Ordinance Chapter 1165.06(c)(2) to allow a second detached garage where code allows no more than one (1) detached garage or carport per dwelling unit.
STRATEGIC PLAN: Neighborhood Residential District
ZONING: C-PUD (West Nine 2 PUD Subarea C)
APPLICATION: V-78-2016

Review based on: Application materials September 23 and October 7, 2016.

Staff report prepared by Stephen Mayer, Community Development Planner.

VII. REQUEST AND BACKGROUND

The applicant proposes to construct a detached garage at the site and requests the following variances:

- B. Codified Ordinance Chapter 1165.06(c)(4) the area of a detached garage to be 1,040 square feet where code allows a maximum of 800 square feet; and
- C. Variance to Zoning Text section 6(d)(viii)(aa) to allow a detached garage to have different wall and roof material from the home.
- D. Codified to Codified Ordinance Chapter 1165.06(c)(2) to allow a second detached garage where code allows no more than one (1) detached garage or carport per dwelling unit.

Per the PUD zoning text variances shall be heard by the Planning Commission.

VIII. SITE DESCRIPTION & USE

The site is 2.67 acres with a single family home. The lot is within New Albany Country Club section 25. The property is located at the southwest quadrant of the Highgrove traffic circle. According to the Franklin County Auditor the house is 7,746 square feet. The surrounding uses include single family residential and golf course.

IX. 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 standards for granting of a 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 a variance:

All of the factors should be considered and no single factor is dispositive. The key to whether a 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.

- 25. Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.*
- 26. Whether the variance is substantial.*
- 27. Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment.”*
- 28. Whether the variance would adversely affect the delivery of government services.*
- 29. Whether the property owner purchased the property with knowledge of the zoning restriction.*
- 30. Whether the problem can be solved by some manner other than the granting of a variance.*
- 31. 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*):

- 32. 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.*
- 33. 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.*
- 34. That the special conditions and circumstances do not result from the action of the applicant.*
- 35. 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.*
- 36. 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. FACTS

Considerations and Basis for Decision

The following information in addition to application submittal information and meeting presentations and discussions should be considered in the Planning Commission's decision for the requested variance:

A. Variance to Codified Ordinance Chapter 1165.06(c)(4) the area of a detached garage to be 1,900 square feet where code allows a maximum of 800 square feet.

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

1. Codified Ordinance Section 1165.06(c)(4) states a detached garage shall not exceed 800 square feet, provided that in no instance shall the detached garage or carport exceed the ground floor area of the main building or five percent (5%) of the total lot, whichever is less. The applicant proposes a detached garage ("car barn") that is 1,900 square feet.
2. The ground floor area of the main building is 4,525 square feet according to the Franklin County Auditor.
3. The applicant has provided that the lot is 2.67 acres (116,305 square feet). Five percent (5%) of the total lot is 5,815 square feet.
4. The applicant states the car barn has been designed in a barn form and is designed to contain many functions including car parking, children athletics and a pool bathroom.
5. The car barn appears to meet or exceed all the required setbacks. The zoning text requires accessory structures to be no more than one story in height. Therefore, there is no specific height requirement. The structure is one story in height.
6. The applicant states this structure has been reviewed and approved by the NACC HOA architectural review board as proposed.
7. The size regulation is intended to achieve an appropriate scale between garages, and the lot that they sit on and the primary structure. Strict application of the regulation on lots of this size would not achieve a scale that is appropriate.
8. The request does not seem to be substantial given the large size of the residence and significant setback from the primary home. While the area of the detached garage may sound large relative to the code maximum, it appears to be minor relative to the size of this residence and lot. Additionally, the significant setback of 210 +/- feet from the primary structure provides ample separation from the existing home and detached garage.
9. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a "substantial detriment." The detached car barn appears to be an appropriate scale and size given the size of the primary residence and lot.
10. It appears that granting the variance will not adversely affect the health and safety of persons residing in the vicinity.
11. It appears granting the variance will not adversely affect the delivery of government services.

B. Variance to Zoning Text section 6(d)(viii)(aa) to allow a detached garage to have different wall and roof material from the home.

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

13. The zoning text section 6(d)(viii)(aa) requires that ancillary structures shall be constructed of the same wall and roof material as the home. The colors, walls, roof, and trim shall match those used on the home.
14. The primary home is four-sided white painted brick with a slate roof. The barn is designed to have horizontal cement board siding with a standing seam metal roof.
15. The applicant states the historic construction of barns would include the same or similar material as proposed: wood siding with a standing seam metal roof. The garage barn will have a white painted brick base with a painted horizontal lap siding on all four sides.
16. The car barn is designed with consistent window and door designs, and colors as those used on the main house, providing consistent details with the home. The applicant states much of the detailing of the proposed barn will be refined as to confirm with the detailing of the current main house. Staff recommends this be a condition of approval.
17. The request does not seem to be substantial since the materials are consistent with those used on historic barn designs. The architect has blended historic barn materials but keeps it in harmony with the house by utilizing consistent window, door, and detailing as those used on the main house.
18. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a "substantial detriment." The adjoining lot closest to the car barn is undeveloped as is most of the Ebrington subdivision. However, the barn is utilizing the same exterior material that can also be utilized on homes in the Ebrington subdivision. Plus, traditionally a barn would be located on a substantially sized property and have a clearly subordinate relationship to the main building. Because this owner bought and combined three lots, it is three to five times the size of a typical lot in Highgrove or Ebrington. It allows for a separation in distance that can't be achieved on other lots. The requirement likely is intended to provide for consistency and uniformity between main dwellings and accessory structures on normal sized lots. Because of the size of this lot, this car barn can be placed away from the main dwelling and have different materials as long as it is complimentary to the house. The size of this lot allows for a larger hierarchy of structures than a typical lot in Highgrove or Ebrington.
19. It appears that granting the variance will not adversely affect the health and safety of persons residing in the vicinity.
20. It appears granting the variance will not adversely affect the delivery of government services.

C. Variance to Codified Ordinance Chapter 1165.06(c)(2) to allow a second detached garage where code allows no more than one (1) detached garage or carport per dwelling unit.

The following should be considered in the Commission's decision:

1. Codified Ordinances 1165.06(c)(2) states there shall be no more than one (1)

- detached garage or carport per dwelling unit.
2. The parcel is over 2.67 acres which equals 116,305 square feet. The existing detached garage is approximately 775 square feet which equates to 0.67% of the entire lot. The proposed car barn is 1.63% of the lot area. Both detached garages combined are slightly more than 2.3% of the entire property.
 3. The first garage appears to be designed as brick Georgian garage to match the architecture of the main house. The proposed second garage (car barn) is designed in the barn form.
 4. This proposed garage car barn is 30 feet from the western side lot line, approximately 70 feet from street right-of-way, and 210 feet from the main house and existing detached garage.
 5. The number regulation is intended to achieve an appropriate balance and scale between garages, the lot that they sit on and the primary structure. It does not appear this number requirement was intended for a lot of this size and scale.
 6. The request does not seem to be substantial given the large size of the lot and residence. While it exceeds the number of detached garages allowed on the site, it appears to be minor relative to the size of this lot and residence.
 7. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a “substantial detriment.” The detached car barn appears to be appropriate given the size of the primary residence and lot. Additionally, since the first detached garage is designed in the Georgian form due to its proximity to the main structure, it does not appear this barn style detached garage will appear as a duplicate structure.
 8. It appears that granting the variance will not adversely affect the health and safety of persons residing in the vicinity.
 9. It appears granting the variance will not adversely affect the delivery of government services.

V. RECOMMENDATION

In summary, all the variance requests do not appear to be substantial given the size of the primary residence and property. The homeowner combined three lots into one large estate lot. This sizable area, in collaboration with the large house, is a unique factor since it provides an opportunity to construct larger accessory structures that are still in scale with its surroundings. Because of the size of this lot, this car barn can be placed away from the main dwelling and have different materials as long as it is complimentary to the house. The size of this lot allows for a larger hierarchy of structures than a typical lot in Highgrove or Ebrington.

VI. ACTION

Should the Planning Commission find that the application has sufficient basis for approval, the following motion would be appropriate:

Move to approve variance application V-78-2016 based on the findings in the staff report with the following condition(s) of approval:

1. The detailing of the proposed car barn will be refined as to confirm with the detailing of the current main house, subject to staff approval.

Approximate Site Location:



Source: Google Maps



**Planning Commission Staff Report
November 21, 2016 Meeting**

**BEECH ROAD SOUTH ZONING DISTRICT
ZONING AMENDMENT**

LOCATION: Generally located on the east and west sides of Beech Road, south of State Route 161 and north of Morse Road (PID: 094-107502-00.000, 094-106926-00.002, 094-106686-00.000, 094-106860-00.000, 094-106860-0.001, 094-106404-06.000, 094-106404-04.000, 094-106404-02.000, 094-106932-01.000, 094-106926-00.000, 094-106674-00.000, 094-106860-00.002, 094-106860-00.004, 094-106404-05.000, 094-106404-02.001, 094-106860-00.003)

APPLICANT: MBJ Holdings c/o Aaron Underhill Esq.
REQUEST: Zoning Amendment
ZONING: AG Agricultural to L-GE Limited General Employment
STRATEGIC PLAN: Office District
APPLICATION: ZC-84-2016

Review based on: Application materials received October 21 and November 9, 2016.

Staff report completed by Stephen Mayer, Community Development Planner.

I. REQUEST AND BACKGROUND

The applicant requests review and recommendation to rezone 544 +/- acres. The applicant proposes to create a new limitation text in the Licking County portion of the New Albany Business Park. This area will be known as the Beech Road South Zoning District, and will be zoned Limited General Employment (L-GE). The proposed limitation text meets the intent of the Strategic Plan's Office District land use category by providing compatible general employment uses.

This new text contains the same list of permitted, conditional, and prohibited uses as the surrounding zoning districts, and the Business Park East Innovation District Subareas known as the Personal Care and Beauty Campus, where companies such as Anomatic, Accel, Axium, and Veepak are located. Other development standards are almost identical to the surrounding subareas.

II. SITE DESCRIPTION & USE

The site was annexed into the city on April 21, 2015 via Ordinance O-15-2015. The site is located within Licking County, located on the east and west sides of Beech Road, south of State Route 161 and north of Morse Road. The neighboring uses and zoning

districts include L-GE and unincorporated residential. The site itself is comprised of residential structures, farm fields, and a wetland mitigation bank.

III. PLAN REVIEW

Planning Commission's review authority of the zoning amendment application is found under C.O. Chapters 1107.02 and 1159.09. Upon review of the proposed amendment to the zoning map, the Commission is to make recommendation to City Council. Staff's review is based on city plans and studies, proposed zoning text, and the codified ordinances. Primary concerns and issues have been indicated below, with needed action or recommended action in underlined text.

Per Codified Ordinance Chapter 1111.06 in deciding on the change, the Planning Commission shall consider, among other things, the following elements of the case:

- (a) Adjacent land use.
- (b) The relationship of topography to the use intended or to its implications.
- (c) Access, traffic flow.
- (d) Adjacent zoning.
- (e) The correctness of the application for the type of change requested.
- (f) The relationship of the use requested to the public health, safety, or general welfare.
- (g) The relationship of the area requested to the area to be used.
- (h) The impact of the proposed use on the local school district(s).

A. New Albany Strategic Plan

The 2014 New Albany Strategic Plan lists the following development standards for the Office District:

- 1. Office buildings should not exceed five stories in height.
- 2. The design of office buildings should include four-sided architecture in order to address multiple frontages when present
- 3. On-Street parking is discouraged.
- 4. Primary parking should be located behind buildings and not between the primary street and the buildings.
- 5. Parking areas should be screened from view.
- 6. Loading areas should be designed so they are not visible from the public right-of-way, or adjacent properties.
- 7. Sidewalks/leisure trails should be placed along both sides of all public road frontage and setback 10 feet from the street.
- 8. Common open spaces or green are encouraged and should be framed by buildings to create a "campus like" environment.
- 9. Appropriate screening should be installed as a buffer between the office district and adjacent residential. If mounding is necessary to achieve this the "reverse slope" type with a gradual slope side toward the right-of-way is preferred.
- 10. Street trees should be provided at no greater a distance than 40 feet on center.
- 11. Individual uses should be limited in size, acreage, and maximum lot coverage.
- 12. No freeway/pole signs are allowed.
- 13. Heavy landscaping is necessary to buffer these uses from adjacent residential areas.

14. A 200 foot buffer should be provided along State Route 161.
15. Structures must use high quality building materials and incorporate detailed, four sided architecture.
16. When double fronting sites exist, office buildings should address both frontages.
17. Plan office buildings within the context of the area, not just the site, including building heights within development parcels.
18. Sites with multiple buildings should be well organized and clustered if possible.
19. All office developments should employ shared parking or be designed to accommodate it.
20. All office developments should plan for regional stormwater management.
21. Office developments should provide connections to the regional trail system.
22. Green building and site design practices are encouraged.
23. Innovative an iconic architecture is encouraged for office buildings.

STAFF HAS ENCLOSED A REDLINED COPY OF THE ZONING TEXT THAT INCLUDE STAFF'S RECOMMENDED CHANGES MENTIONED IN THIS STAFF REPORT.

B. Use, Site and Layout

1. The proposed zoning text is a limitation text. A limitation text can only establish more restrictive requirements than the zoning code.
2. It appears the applicant has used similar development standards from the surrounding zoning districts (Beech Interchange Zoning District and Business Park South Zoning District).
 1. Beech Road: minimum 50 foot pavement and 50 foot building setback from right-of-way.
 - This matches the neighboring zoning districts to the north.
 2. Morse Road: minimum 100 foot pavement and 100 foot building setback from right-of-way.
 - This appears to be appropriate given the surrounding setbacks and land uses.
 3. New Public Streets: The applicant proposes 25 pavement and building setback from the right-of-way.
 - Given the large area of this zoning district and the variety of roads that may be necessary, staff recommends the setbacks be contingent on the type (size) of the roadway.
 - Staff recommends a 25 pavement and building setback from the right-of-way for commercial public streets and a 50 pavement and building setback from the right-of-way for semi-commercial public streets as identified in the city of New Albany 2014 Strategic Plan.
 4. Perimeter Boundaries: 25 foot pavement and 50 foot building setback from other commercially zoned properties. 50 foot building and pavement setback is proposed when adjacent to property with a zoning classification that permits residential uses.
 - This matches other surrounding zoning districts' requirements.

3. This is the same list of permitted, conditional, and prohibited uses as Business Park East Innovation District Subarea A, known as the Personal Care and Beauty Campus, where companies such as Anomatic, Accel, Axium, and Veepak are located.
4. The limitation text will allow for general office activities, warehouse & distribution, off-premises signs, data centers, and research & production uses. Personal service and retail product sales and services are only allowed as accessory uses to a permitted use in this subarea.
5. Conditional uses include car fleet and truck fleet parking, and manufacturing and production.
6. Prohibited uses include industrial product sales and services, mini-warehouses, vehicle services, personal service and retail product sales and service (except as an accessory use to a permitted use), radio/television broadcast facilities, and sexually oriented business.
7. Due to the proximity of this site to the State Route 161/Beech Road interchange and its location adjacent to commercially zoned land in the existing Licking County business park, the site appears to be most appropriate for commercial development.

C. Access, Loading, Parking

1. The applicant proposes to dedicate a total of 80 feet of right-of-way along Beech Road and all other public streets constructed within this zoning district shall have a right-of-way width that is appropriate for the character and anticipated usage of such streets.
2. Staff recommends updating the text to require that prior to submitting an application with the city for a plat or private site development, relating to any public streets in this subarea, the developer shall be required to obtain approval of a traffic study. Right-of-way widths shall generally be consistent with the recommendations within the City of New Albany 2014 Strategic Plan. A minimum of 100 feet of right-of-way is dedicated along Beech Road, as is required in neighboring zoning districts. All other public streets constructed within this zoning district shall have a right-of-way width that is appropriate for the character and anticipated usage of such streets as guided by the City of New Albany 2014 Strategic Plan and determined by the aforementioned traffic study.
3. Parking will be provided per code requirements (Chapter 1167) and will be evaluated at the time of development for each individual site.
4. The text requires an internal pedestrian circulation system shall be created so that a pedestrian using a public sidewalk along a public street can access the adjacent buildings through their parking lots as delineated with markings, crosswalks, and/or different materials, directing foot traffic, where possible, away from primary access drives

D. Architectural Standards

1. The proposed rezoning seeks to implement the same standards and limitations set forth in the New Albany Architectural Design Guidelines and Requirements (Chapter 1157).

2. The same architectural requirements as the existing Innovation District subarea A are proposed and the immediate surrounding zoning districts.
3. The City's Design Guidelines and Requirements do not provide architectural standards for warehouse and distribution type facilities. Due to the inherent size and nature of these facilities careful attention must be paid to their design to ensure they are appropriately integrated into the rest of the business park. This limitation text includes the same specific design requirements for uses not governed by the DGRs as those in the other subareas of the Business Park East Innovation District, which will ensure the quality design of these buildings.
4. The text requires complete screening of all roof-mounted equipment shall be required on all four sides of buildings with materials that are consistent and harmonious with the building's façade and character. Such screening shall be provided in order to screen the equipment from off-site view and to attenuate sound generated by such equipment.

D. Parkland, Buffering, Landscaping, Open Space, Screening

1. Maximum lot coverage for this subarea is 75% .
2. The zoning text proposes to establish perimeter and internal preservation zones.
 - a. The perimeter preservation zones shall be deemed to include all minimum pavement setbacks along the perimeter boundaries of the Zoning District that are not adjacent to a public right-of-way. Within the Preservation Zones located within these perimeter setbacks, the developer shall preserve existing healthy and mature trees and vegetation but shall be permitted to place utilities within or allow them to cross through these areas, provided, however, that the developer shall use good faith efforts to place utilities in a manner that minimizes the impact on healthy and mature trees. Staff recommends the text is revised to allow “trees and/or vegetation which are dead, evasive, noxious material, diseased or present a danger to persons or property may be removed therefrom.” This is typical preservation zone language used in various reserve areas around the community and simplifies interpretation/enforcement of the zoning text in the future.
 - b. The internal preservation zones (“mitigation bank”) that are located outside of the minimum required perimeter pavement setbacks as shown on the Preservation Plan illustrate the land that has been or is anticipated to be preserved pursuant to applicable federal and state permits that have been issued or once they are approved and issued by the Ohio Environmental Protection Agency and the U.S. Army Corps of Engineers. The text states the Preservation Plan is being provided for illustrative purposes only, and the final boundaries of the Preservation Zones that are located outside of the minimum required perimeter pavement setbacks shall be the same as the boundaries of the portions of the site that will be required to be preserved under applicable federal and state permits, as may be amended from time-to-time.

- c. Staff recommends the text is revised to include a provision stating stream corridor protection zones should be utilized as a site amenities and provide public access for leisure trail and linear park space.
- 3. Landscaping within the required minimum building and pavement setbacks along Beech Road shall be provided in accordance with the following standards:
 - a. A landscape buffer is required to be located within the pavement setback along Beech Road. The buffer shall be planted with a minimum quantity of one tree per 25 feet, in addition to street trees. Trees shall be randomly planted to create a naturalized appearance. Trees shall be of native species. Evergreen trees or shrubs shall not be permitted in the area between the buffer landscape and the edge of street pavement. Section C.4 above, the fence may be located 1 foot from the edge of that easement. Where screening of parking areas is required along Beech Road, the buffer shall have a minimum height of 3.5 feet and a minimum opacity of 75%. This buffer may consist of mounding not to exceed (no steeper than) a 6:1 ratio and tree plantings. Mounding, when used, shall be a minimum height of 3 feet and maximum of 12 feet.
 - i. This is consistent with other zoning text requirements along Beech Road.
- 4. The zoning text does not contain landscaping standards along Morse Road. Given the relationship to the New Albany corporate boundary to Pataskala and unincorporated Jersey Township, staff recommends landscaping standards be included. The same landscaping standards that were required for the Innovation District Expansion rezoning along Jug Street are appropriate for this area, will provide screening and enhance the southern edge of the New Albany Business Park. Landscaping within the required minimum pavement setbacks along Beech Road shall be provided in accordance with the following standards:
 - a. A landscape buffer shall be located within the pavement setback. The buffer shall be planted with a minimum quantity of one tree per 25 feet, in addition to street trees. Trees shall be randomly planted to create a naturalized appearance. Trees shall be of native species. Evergreen trees or shrubs shall not be permitted in the area between the buffer landscape and the edge of street pavement. A four-board white horse fence may be located 1 foot from the edge of the right-of-way along Morse Road. The landscape buffer may consist of mounding. Mounding, when used, shall be a maximum of 12 feet in height.
- 5. In order to ensure landscaping is installed along all portions of Beech and Morse Roads, staff recommends the text is revised to state stormwater and other similar non-building activities require the landscaping stated in this text be installed.
- 6. The zoning district proposes to require the similar landscape and mounding screening requirements from residences as required in in the recently approved zoning districts to the north. Staff recommends the screening requirements be revised to include residentially zoned property, clearly define if two contiguous properties have an intervening public street right-of-way between them, they

shall still be considered to be abutting, and modify the process for submitting a zoning permit. The text with staff's recommended changes requires:

- a. For those perimeter boundaries which abut residentially zoned properties with frontage on either Beech Road or Morse Road (if two contiguous properties have an intervening public street right-of-way between them, they shall still be considered to be abutting), a minimum six (6) foot high mound shall be installed along the property line and shall include a landscape buffer on the mound which shall consist of a mixture of deciduous trees, evergreens and bushes to provide an opacity of 75% five years after planting to a total height of 10' above ground level. These mounds shall be installed within the minimum pavement setback area as required by this zoning text and may encroach on the abutting property if that owner is in agreement with the mounds installation on his/her property. Prior to submitting a zoning permit which includes a landscape plan without a mound, the applicant will provide documentation from the adjacent property owner that the landscape plan is acceptable to them. The plan for these areas must be reviewed and approved by the City's Landscape Architect.
 - b. If there are existing trees within this perimeter area and the desire among the parties is to preserve the existing trees then the mounding may be omitted and the existing trees may be utilized as the required screening. The requirement for 75% opacity 5 years after installation is still applicable with this alternative and, therefore, if necessary, additional landscaping materials (i.e., deciduous trees, evergreens or bushes) shall be planted along those perimeter boundary areas to meet the 75% opacity requirement. The plan for these areas must be reviewed and approved by the City's Landscape Architect.
7. Street trees will be located an average of 30 feet on center throughout the development.
 8. Minimum tree sizes for on-site trees match the standards found in other surrounding zoning districts.

E. Lighting & Signage

1. No signage is proposed at this time. Per the text all signage shall meet the standards set forth in Codified Ordinance 1169 (City Sign Code).
2. All lighting shall be cut-off type fixtures and down cast to minimize light spilling beyond the boundaries of the site. The maximum height is 30 feet.
3. The zoning text requires lighting details to be included in the landscape plan which is subject to review and approval by the City Landscape Architect.

F. Other Considerations

1. The applicant has submitted a school impact statement which states the proposed L-GE zoning will result in fewer children in the school district and add significant value to the land that will be a substantial financial benefit to the school district.

IV. ENGINEER'S COMMENTS

The City Engineer has reviewed the application and provided the following comment(s):

The City Engineer's review comments on the referenced rezoning are as follows:

1. All access locations are subject to criteria contained in the current version of the ODOT State Highway Access Management Manual.
2. We recommend that the applicant dedicate a minimum of 100' of R/W.
3. We recommend that the applicant perform a traffic analyses to determine the number of lanes, including left turn lanes and R/W widths, required to support development.

The engineering comments can also under separate cover from the consulting City Engineer, E.P. Ferris & Associates.

V. RECOMMENDATION

Basis for Approval:

The proposed rezoning is generally consistent with the principles of commercial development in the Strategic Plan and the existing business park in Licking County. Additional restrictions and commitments have been provided that are above what the base zoning code would require.

1. The large scale of the rezoning will result in a more comprehensive planned redevelopment of the area and will ensure compatibility between uses (1111.06(a)).
2. The L-GE rezoning application is an appropriate application for the request(1111.06(e)).
3. The overall effect of the development advances and benefits the general welfare of the community (1111.06(f)).
4. The proposed rezoning will allow for the development of businesses that will generate revenue for the school district while eliminating residential units having a positive impact on the school district (1111.06(h)).

Staff recommends approval provided that the Planning Commission finds the proposal meets sufficient basis for approval.

VI. ACTION

Suggested Motion for ZC-84-2016:

To recommend approval to Council of Zoning Change application ZC-84-2016 based on the findings in the staff report with following condition of approval (conditions may be added)

1. The zoning text is revised to include the recommended changes as discussed in this staff report as contained in the text dated November 8, 2016.