



## Board of Zoning Appeals

### Meeting Minutes

December 28, 2016

7:00 p.m.

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

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

Those answering roll call:

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

Staff members present: Stephen Mayer, Planner and Pam Hickok, Clerk.

Moved by Durik to approve the June 27, 2016 meeting minutes as amended, Seconded by Miller. Upon roll call: Thomas, yea; Miller, yea; Durik, yea; Gallagher, abstain. Yea, 3; Nay, 0; Abstain, 1. Motion passed by a 3-0 vote.

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

Mr. Thomas asked for any changes to the agenda.

Mr. Mayer stated no changes to the agenda.

Mr. Thomas invited the public to speak on non-agenda related items. Received no response.

Moved by Durik to accept the staff report and related documents into the record, Seconded by Miller. Upon roll call: Gallagher, yea; Miller, yea; Thomas, yea; Durik, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

#### **V-95-2016 Variance**

**Variance to Codified Ordinance Chapter 1165.06(c)(4) to allow a detached garage to be 1,200 square feet where code permits a maximum area of 800 square feet at 5055 Johnstown Road (PID: 222-004747).**

**Applicant: Leslie & Tim Timmons**

Mr. Tim Timmons stated that he would like to build an outbuilding similar to the architecture of the primary structure. Staff discussed with me whether this was going to be a storage building or a detached garage. Need storage for the equipment we have to take care of the land including large tractor, quad and multiple vehicles that will take more than 800 square feet.

Mr. Thomas asked for any comments from board members.

Mr. Durik asked if they intend to subdivide the property.

Mr. Timmons stated that we put it on the market and have not sold it at this time. We have placed the building on the lot to meet the setbacks if we subdivide in the future.

Mr. Mayer presented the staff report.

Mr. Thomas asked if neighbors within 200 feet were notified.

Mr. Mayer stated yes. Staff did not received any phone calls.

Ms. Miller stated that it appears appropriate to the lot and even if it is subdivided in the future.

Mr. Thomas stated that any further subdivision would require additional review.

Mr. Mayer stated that variances come to this board. Subdivisions are reviewed by Planning Commission and City Council.

Mr. Thomas asked if they know what will happen in the future with the additional land.

Mr. Timmons stated that if we subdivide we have run water, the electric was buried and a larger gas line was installed. Aaron Underhill has worked with staff and I believe everything is done that would need to be. It hasn't sold and I don't know what will happen in the future. If we were to receive a full price offer we would probably accept. It is only zoned for one additional lot.

Mr. Gallagher stated that after reviewing many sets of minutes this appears to be appropriate given the large lot size.

Mr. Durik stated that with the scale and size of lot I don't see Planning Commission having a problem if you decide to subdivide.

Ms. Miller read through the Duncan standards and stated that it appears to meet the criteria.

Moved by Gallagher to approve the V-95-16 based on the findings in the staff report, Seconded by Miller. Upon roll call: Thomas, yea; Miller, yea; Durik, yea; Gallagher, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Mr. Gallagher introduced himself. He stated that he lived here 24 years and has served on the original parks commission 1993, joint economic commission and is currently the senior vice president & treasurer for Abercrombie & Fitch.

Moved by Miller to adjourn, Seconded by Durik. Upon roll call: Thomas, yea; Miller, yea; Durik, yea; Gallagher, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Meeting adjourned at 7:20 pm.

Submitted by Pam Hickok

# APPENDIX



## Board of Zoning Appeals Staff Report December 28, 2016 Meeting

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### 5055 JOHNSTOWN ROAD DETACHED GARAGE VARIANCE

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**LOCATION:** 5055 Johnstown Road. (PID: 222-004747)  
**APPLICANT:** Timothy & Leslie Timmons  
**REQUEST:** Variance to Codified Ordinance Chapter 1165.06(c)(4) to allow a detached garage to be 1,200 square feet where code permits a maximum area of 800 square feet  
**ZONING:** "L-R-1" Limited Residential Estate District  
**STRATEGIC PLAN:** N/A (not categorized)  
**APPLICATION:** V-95-2016

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Review based on: Application materials received November 16 and December 2, 2016

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

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#### I. REQUEST AND BACKGROUND

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

- A. Variance to Codified Ordinance Chapter 1165.06(c)(4) to allow a detached garage to be 1,200 square feet where code permits a maximum area of 800 square feet.

#### II. SITE DESCRIPTION & USE

The site is located along a private access road on the west side of Johnstown Road and is immediately north of New Albany Country Club Section 29 (Oxford) and west of the Temple Beth Shalom. According to the Franklin County Auditor the site is currently a single parcel approximately 5.28 acres in size. This parcel contains a new single-family residence built in 2013.

The property has one single-family residence on the property. The site was annexed to the city and rezoned to Limited Residential Estate District (L-R-1) by the Planning Commission on January 21, 2015 via ZC-110-2014. The property is currently one lot and the limitation text allows the parcel to be split for a total, maximum of two single-family lots. The property is not categorized with a future land use in the city's 2014 Strategic Plan, but is adjacent to the Neighborhood Residential future land use category.

### III. EVALUATION

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

#### *Criteria*

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

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

1. *Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.*
2. *Whether the variance is substantial.*
3. *Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment.”*
4. *Whether the variance would adversely affect the delivery of government services.*
5. *Whether the property owner purchased the property with knowledge of the zoning restriction.*
6. *Whether the problem can be solved by some manner other than the granting of a variance.*
7. *Whether the variance preserves the “spirit and intent” of the zoning requirement and whether “substantial justice” would be done by granting the variance.*

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

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

### III. RECOMMENDATION

#### *Considerations and Basis for Decision*

- A. Variance to Codified Ordinance Chapter 1165.06(c)(4) to allow a detached garage to be 1,200 square feet where code permits a maximum area of 800 square feet.**

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

1. The applicant proposes to build a 30x40 detached garage.
2. 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 that is 1,200 square feet.
3. The ground floor area of the house is 2,423 square feet according to the Franklin County Auditor. The entire home is 3,870 square feet (built in 2013).
4. The home is currently on a 5.284 acre lot. The homeowner has received variances from New Albany Board of Zoning Appeals to allow them to subdivide the property into a maximum of two lots. The applicant's site plan shows the future lot layout. Any subdivision of this lot must be reviewed and approved by the Planning Commission and City Council.
5. The applicant shows their lot after the subdivision is planned to be 2.64 acres (114,998 square feet). Five percent (5%) of this total lot is 5,750 square feet.
6. The detached garage appears to meet or exceed all the required setbacks both before and after a subdivision.
7. The request does not seem to be substantial given the large size of the lot even after it is subdivided (based on the conceptual site layout) and its location. The city's code prescribes restrictions that are appropriate for a typical lot in a residential subdivision. Due to the size of this lot, it does not appear that the proposed garage will be out of scale or proportion with other development in the area.
8. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a "substantial detriment." The lot is not within a subdivision and is located along a private drive, well screened from other residences and public rights-of-way. Additionally, there appear to be at least two other properties immediately within the vicinity with detached garages larger than 800 square feet in Plain Township. One with a 2,600 square foot barn structure and another property with an almost 900 square foot detached garage.
9. The variance appears to preserve the "spirit and intent" of the zoning requirement since it is appropriately located on the site, meets all the setback standards, and the applicant states they plan on making the detached garage's roof pitch and materials match the home. Therefore, the detached appears consistent with and appropriate for its surroundings.
10. 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.

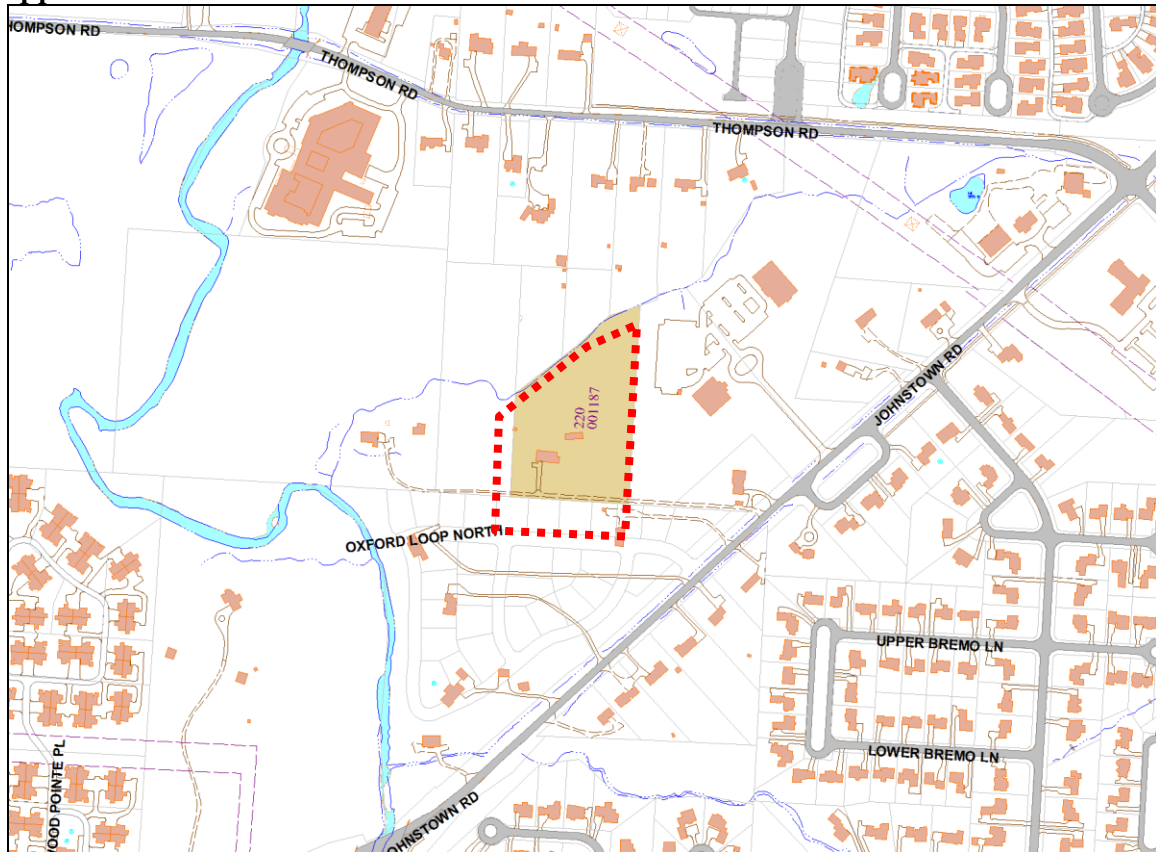
In summary, the variance request does not appear to be substantial given the large lot and the surrounding development. It does not appear the essential character of the area would be substantially altered or adjoining properties would suffer a "substantial detriment" since the general vicinity is mostly rural in nature where larger accessory buildings are more typical. The detached garage is situated appropriately within the code required setbacks for adjoining lots and meets all other design criteria.

## **V. ACTION**

Should the Board of Zoning Appeals 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-95-2016 based on the findings in the staff report.**

**Approximate Site Location:**



Source: Franklin County Auditor