



Board of Zoning Appeals

Meeting Minutes

February 27, 2017

7:00 p.m.

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

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

Those answering roll call:

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

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

Moved by Gallagher to approve the January 23, 2017 meeting minutes, Seconded by Thomas. Upon roll call: Thomas, yea; Kriss, yea; Gallagher, yea. Yea, 3; Nay, 0; Abstain, 0. Motion passed by a 3-0 vote.

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

Ms. Kriss asked for any changes to the agenda.

Mr. Mayer stated no changes to the agenda.

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

Moved by Gallagher to accept the staff report and related documents into the record V-04-2017, Seconded by Thomas. Upon roll call: Gallagher, yea; Miller, yea; Thomas, yea. Yea, 3; Nay, 0; Abstain, 0. Motion passed by a 3-0 vote.

Moved by Thomas to accept the staff report and related documents into the record V-05-2017, Seconded by Kriss. Upon roll call: Gallagher, yea; Miller, yea; Thomas, yea. Yea, 3; Nay, 0; Abstain, 0. Motion passed by a 3-0 vote.

V-04-2017 Variance

Variance to Codified Ordinance Chapter 1165.06 to area requirements of a detached garage at 4104 Harlem Road (PID: 222-000856).

Applicant: Alan T. Jeffers

Mr. Stephen Mayer presented the staff report.

Mr. Gallagher asked if we received any phone calls.

Mr. Mayer stated no.

Ms. Kriss asked if neighbors were notified

Mr. Mayer stated all neighbors within 200' of this property was mailed a letter.

Mr. Gallagher stated that it appears to meet the Duncan factors and it is not substantial since it is a replacement and only slightly larger than the previous garage. He continued by starting to make the motion stating that approval was based upon the fact that it is not substantial and meet most of the seven Duncan criteria.

Mr. Banchefsky asked Chairman Kriss if any audience members would like to speak to this application.

Mr. Alan Jeffers, 4104 Harlem Road, stated that he is the homeowner and they would like it larger because we have three drivers.

Moved by Gallagher to approve V-04-2017, Seconded by Kriss. Upon roll call: Thomas, yea; Kriss, yea; Gallagher, yea. Yea, 3; Nay, 0; Abstain, 0. Motion passed by a 3-0 vote.

V-05-2017 Variance

Variance to Codified Ordinance Chapter 1165.06 to area requirements of a detached garage at 7779 Lambton Park Road (PID: 222-002079).

Applicant: Todd Parker

Mr. Stephen Mayer presented the staff report.

Mr. Thomas asked if we heard from any neighbors.

Mr. Mayer stated yes; the neighbors are present in the audience and have provided a letter for your review. (provided letter to members)

Ms. Kriss asked Mr. Mayer to show on the map the property for this application and the neighbor's property.

Mr. Mayer used the map to show locations.

Mr. Gallagher asked if the structure was 800sf would it require a variance.

Mr. Mayer stated no; it meets all other code requirements.

Mr. Gallagher asked if a neighbor could object to the garage if it was 800sf and met code.

Mr. Mayer stated that it would not have a public forum, it would be the property owner's rights to build that garage.

Mr. Gallagher stated that we are only looking at about 5% over the code allowed square footage and that is to make it architecturally and structurally similar to the existing garage.

Mr. Todd Parker, F-5 Design, stated that we tried to match this garage to the existing garage.

Mr. Thomas asked if the homeowners would object to reducing the size of the garage.

Mr. Parker stated he doesn't think so but we thought we would ask for the variance for the sake of symmetry.

Ms. Brisk asked what would happen if you reduced the size of the garage.

Mr. Parker stated that the existing three car garage is actually only usable as a two car garage due to the location of two stairways. He needs a place to park his pickup truck. He would try to reduce the scale of one of the bays.

Mr. Thomas asked the neighbor if anything has been said that has changed your concerns.

Mr. Jeff Salon, 7689 Somerly Court, stated that the letter spells out my concerns. This would isolate all views from our house. I work out of the front left corner office with a view of the fence and golf course and the living room is back a little further (explaining using map). This is a residential community; six car garage next door? This will be a detrimental impact to the enjoyment of our property.

Mr. Gallagher stated that we would have the same issue if it was 800sf and they could build that garage.

Mr. Salon stated yes. We didn't know about this at all until we received a letter.

Ms. Kriss asked if there is a landscape plan.

Mr. Parker stated that the garage would be eliminate the ARC required screening.

Ms. Brisk asked if there is existing landscaping and how tall they are.

Mr. Parker stated that they are 6'-8' arborvitae as required by ARC.

Mr. Thomas asked if the trees obstruct the view of the golf course.

Mr. Jeff stated no, the garage will extend further than the landscape.

Mr. Thomas stated that the applicant can build a garage without a variance if he reduces the garage and you would still have the impact. Asked the applicant for any input.

Mr. Parker stated that we may be able to build a 2 car garage instead of 3 car garage.

Ms. Kriss asked if you reduced the size of the garage could you remove it from the front side near the street so that the neighbors view would not be as obstructed.

Mr. Parker stated that from ARC function typically they want the buildings to line up on the street side. I would need to talk to clients prior to agreeing to any changes.

Mr. Thomas asked if there is an urgency.

Mr. Parker stated he doesn't think so.

Mr. Thomas stated that we could table to allow the applicant to speak with the client and neighbors.

Ms. Kriss asked if any other neighbors responded.

Mr. Mayer stated that the neighbors present were the only neighbors we heard from.

Mr. Thomas wants to table to allow applicant to discuss.

Moved by Thomas to table V-5-2017 , Seconded by Kriss. Upon roll call: Thomas, yea; Kriss, yea; Gallagher, yea. Yea, 3; Nay, 0; Abstain, 0. Motion passed by a 3-0 vote.

Ms. Joly stated that we will be having an organizational meeting in March.

Moved by Gallagher to adjourn, Seconded by Thomas. Upon roll call: Thomas, yea; Kriss, yea; Gallagher, yea. Yea, 3; Nay, 0; Abstain, 0. Motion passed by a 3-0 vote.

Meeting adjourned at 7:25 pm.

Submitted by Pam Hickok

APPENDIX



Board of Zoning Appeals Staff Report February 27, 2017 Meeting

4104 HARLEM ROAD DETACHED GARAGE VARIANCE

LOCATION: 4104 Harlem Road (PID: 222-000856)
APPLICANT: Alan Jeffers
REQUEST: Variance to Codified Ordinance Chapter 1165.06(c) to allow a detached garage to be 1,200 square feet in area
ZONING: R-3 Single Family Residential District
STRATEGIC PLAN: Neighborhood Residential District
APPLICATION: V-04-2017

Review based on: Application materials received January 26, 2017.

Staff report prepared by Stephen Mayer, Community Development Planner.

I. REQUEST AND BACKGROUND

In the November 2016 the existing detached garage on the site was destroyed by a fire. The applicant proposes to construct a new detached garage at the site and is requesting the following variance:

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

II. SITE DESCRIPTION & USE

According to the Franklin County Auditor, the single family home on the site was constructed in 1979 and is 1,554 square feet in size. The lot is located on the east side of Harlem Road, north of Morse Road and south of Johnstown Road. This property is approximately 0.92 acres. Surrounding land uses include residential.

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 in area 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 detached garage that is 30 feet by 40 feet (1,200 square feet in area).
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.
3. The home is a one-story residence with ground floor area of 1,554 square feet

- according to the Franklin County Auditor.
4. The lot is 0.92 acres (40,075 square feet) according to the Franklin County Auditor. Five percent (5%) of this total lot area is 2,004 square feet.
 5. The detached garage appears to meet or exceed all the required setbacks.
 6. The request does not seem to be substantial since this is a replacement of garage. Even though it is larger than the previous garage, and larger than code requires, it does not appear to be more impactful to neighbors.
 7. The variance appears to preserve the “spirit and intent” of the zoning requirement since it is appropriately located on the site and meets all the setback standards. Therefore, the detached appears consistent with and appropriate for its surroundings.
 8. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a “substantial detriment.” The applicant states they use to have a smaller garage is the same location but it was destroyed by a fire in the fall of 2016 so this a replacement.
 9. 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 that this is replacing a previously existing garage. It does not appear the essential character of the area would be substantially altered or adjoining properties would suffer a “substantial detriment” since the applicant is replacing a previously existing structure. The detached garage is situated appropriately within the code required setbacks for adjoining lots and meets all other design criteria.

This board and the Planning Commission have seen numerous variances for detached garages in recent years. Staff is currently researching and working on a code update for Chapter 1165 Accessory Structures. Based on staff's research it appears this size garage would be permitted in other jurisdictions.

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-04-2017 based on the findings in the staff report.

Approximate Site Location:



Source: Google Maps



**Board of Zoning Appeals Staff Report
February 27, 2017 Meeting**

**7779 LAMBTON PARK ROAD
DETACHED GARAGE VARIANCE**

LOCATION: 7779 Lambton Park Road (PID: 222-002079)
APPLICANT: Todd Parker, F5 Design/Architecture
REQUEST: Variance to Codified Ordinance Chapter 1165.06(c) to allow a detached garage to be 844 square feet in area
ZONING: R-3 Single Family Residential District
STRATEGIC PLAN: Neighborhood Residential District
APPLICATION: V-05-2017

Review based on: Application materials received January 27 and February 17, 2017.

Staff report prepared by Stephen Mayer, Community Development Planner.

IV. REQUEST AND BACKGROUND

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

- B. Codified Ordinance Chapter 1165.06(c)(4) to allow a detached garage to be 844 square feet in area where code permits a maximum area of 800 square feet.

V. SITE DESCRIPTION & USE

According to the Franklin County Auditor, the single family home on the site was constructed in 2002 and is 5,725 square feet in size. The lot is located within New Albany Country Club Section 16A. This property is approximately 0.72 acres and is located east of Lambton Park Road and south of Somerly Court. Surrounding land uses include residential and golf course.

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

B. Variance to Codified Ordinance Chapter 1165.06(c)(4) to allow a detached garage to be 844 square feet in area where code permits a maximum area of 800 square feet.

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

10. The applicant proposes to build a three car detached garage that is 844 square feet in area.
11. 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.
12. The ground floor area of the house is 3,364 square feet according to the Franklin County Auditor. The entire home is 5,725 square feet.
13. The lot is 0.72 acres (31,363 square feet) according to the Franklin County Auditor. Five percent (5%) of this total lot area is 1,568 square feet.

14. The detached garage appears to meet or exceed all the required setbacks.
15. The variance appears to preserve the “spirit and intent” of the zoning requirement since the detached garage is appropriately located on the site in relation to the house, meets all the setback requirements, and it’s exterior design matches that of the home. Therefore, the detached appears consistent with and appropriate for its surroundings.
16. 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. The applicant has designed this detached garage so it mimics the existing three car attached garage.
17. The request does not seem to be substantial given the large size of the residence. The area of the detached garage appears to be minor relative to the size of this residence.
18. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a “substantial detriment.” The detached garage appears to be an appropriate scale and design given the size of the primary residence.
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.

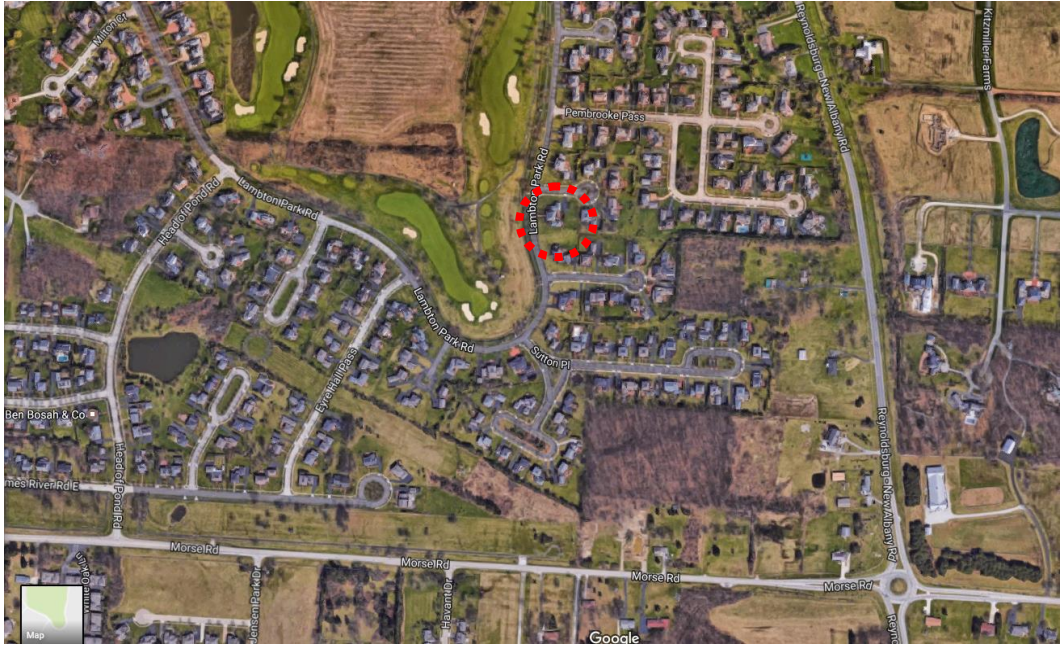
In summary, the variance request does not appear to be substantial given the large house. The detached garage is situated appropriately within the code required setbacks for adjoining lots and meets all other design criteria. The detached garage is designed to mimic the garage on the main house so they are symmetrical.

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-05-2017 based on the findings in the staff report.

Approximate Site Location:



Source: Google Maps