



## **Board of Zoning Appeals**

### **Meeting Minutes**

**August 28, 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 Member, Kriss at 7:05 p.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. Everett Gallagher	Present
Ms. Alicia Miller	Absent
Ms. Andrea Wiltrout	Present
Mr. Kasey Kist	Present
Ms. Marlene Brisk (Council Representative)	Present

Staff members present: Stephen Mayer, Planner; Mitch Banchefsky, City Attorney; Jackie Russell, Clerk and Pam Hickok, Clerk.

Moved by Kist to approve the July 24, 2017 meeting minutes, as corrected; Seconded by Gallagher. Upon roll call: Kriss, yea; Gallagher, yea; Wiltrout, yea; Kist, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Ms. Kriss asked for any changes to the agenda.

Ms. Russell stated none.

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

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

#### **V-24-2015 Variance Extension**

**An extension of approved variance requests to Codified Ordinance Chapter 1165.06(a) to allow a pavilion to exceed the height and encroach the setback requirements, and to Codified Ordinance Chapter 1165.06(c) to allow a detached garage to exceed the height and area requirements, and encroach the setback requirements at 7228 Greensward Drive (PID: 222-000953).**

**Applicant: Kim McCann c/o Linda Hondros**

Ms. Jackie Russell presented the staff report.

Ms. Kriss sworn in the applicant.

Ms. Linda Hondros, 7228 Greenswards Road, stated that she appreciated the time with the board. When we started this process the economy was slower. In the last year, our contractor is no longer available and we believe with the year extension we will be able to start the project.

Moved by Gallagher to approve the extension of variance V-24-2015 subject to the following conditions.

1. The variance extensions will become effective July 6, 2017
2. The variance extensions are permitted for one year, to expire July 6, 2018 and that any extension in time is reviewed and approved by the Board of Zoning Appeals.
3. The conditions of approval placed on the approval of the original variances by the Board of Zoning Appeals on May 27, 2015, as follows:
  - a. The garage is built as presented to the Board of Zoning Appeals with 4 sided brick, hip roof, and no cupola.
  - b. There is no dormer on the north elevation.
  - c. Landscape plan is completed as presented and discussed at the meeting from May 27, 2015, Seconded by Kriss. Upon roll call: Kriss, yea; Gallagher, ye; Wiltrout, yea; Kist, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Meeting adjourned at 7:12 pm.

Submitted by Pam Hickok

# APPENDIX



## Board of Zoning Appeals Staff Report August 28, 2017 Meeting

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### 7228 GREENSWARD DRIVE EXTENSION TO PAVILION & DETACHED GARAGE VARIANCES

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LOCATION: 7228 Greensward Drive (PID: 222-000953)  
APPLICANT: Kim McCann c/o Linda Hondros  
REQUEST: Extension for variances to Codified Ordinance Chapter 1165.06(a) to allow a pavilion to exceed the height and encroach the setback requirements, and to Codified Ordinance Chapter 1165.06(c) to allow a detached garage to exceed the height and area requirements, and encroach the setback requirements  
ZONING: R-3 (Single-Family Residential District)  
STRATEGIC PLAN: Neighborhood Residential District  
APPLICATION: V-24-2015

Review based on: Application materials received March 27, April 13 and 30, May 17, 2015, and July 24, 2017.

*Staff report prepared by Jackie Russell, Community Development Clerk.*

#### I. REQUEST AND BACKGROUND

The applicant is seeking an extension for a total of five variances: two variances to allow a pavilion to exceed the maximum height requirement and encroach the minimum setback requirements, and three variance related to a detached garage in order to exceed the maximum height and area requirements, and encroach the minimum setback requirements.

The Board of Zoning Appeals reviewed the application and approved all the variances on May 27, 2015. A neighboring property owner filed an appeal in the Franklin County Court of Common Pleas. Following the filing of briefs by all parties and hearings in this matter, the Court remanded the case back to the BZA for further proceedings consistent with the Court's decision (to provide clearer basis for its decision to approve the variances).

On June 17, 2016 the Board convened and confirmed its May 27, 2015 decision to approve the variances, which included clearer bases for its decision.

Subsequently, on July 6, 2016, city staff was notified by the appellants' attorney his clients were no longer pursuing the appeal.

Codified Ordinance 1113.07 states a certificate of zoning compliance (zoning permit) may be issued only within the period of one year from the date of final approval by the Board of Zoning Appeals. Since the last action in regard to the appeal occurred on July 6, 2016, the law director determined that the applicants had one year from that date to submit an application.

Therefore, the applicant requests a retroactive extension of the following variances (previously approved) in order to construct a new pavilion and detached garage at the site:

- A. Codified Ordinance Chapter 1165.06(a)(3) to allow a pavilion to be 19 feet in height where code allows a maximum of 10 feet;
- B. Codified Ordinance Chapter 1165.06(a)(2)(D) to allow a pavilion to be setback 27' 8" from the main building where code requires a minimum of 38 feet;
- C. Codified Ordinance Chapter 1165.06(c)(3) to allow a detached garage to be 26' 3" feet in height where code allows a maximum of 25 feet;
- D. 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
- E. Codified Ordinance Chapter 1165.06(c)(1)(D) to allow a detached garage to be setback 14' 11" from the rear lot line where code requires a minimum setback of 30 feet.

## **II. RECOMMENDATION**

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

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

- The purpose of this staff report is to evaluate an extension of previously approved variances.
- Codified Ordinance 1113.07 states a certificate of zoning compliance (zoning permit) may be issued only within the period of one year from the date of final approval by the Board of Zoning Appeals. Since the last action of this application occurred on July 6, 2016, the homeowner at 7228 Greensward Drive had one year from that date to submit an application.
- The work had not been begun. The extension is retroactive.
- The requested extension will give the applicant more time to move forward with the development. The conditions that were present when the application was last heard and approved are still valid and the plans are not expected or proposed to be altered. The evaluation of each request from the original staff report is below. The original application, record of actions, and past minutes are attached for reference.
- The applicant states that due to the overall process of litigation, the amount of time and resources it took, and that their original contractor was no longer available to proceed with the construction plans they decided to time to regroup and find another contractor. They are now ready to begin the project and request a one year extension to begin the work.

The purpose of this staff report is to evaluate an extension of previously approved variances. In summary, granting an extension for all of the variance requests does not appear to be substantial given that the designs and plan has not changed. The conditions that were present when the application was last heard and approved are still valid and the plans are

not expected to be altered. The Planning Commission has approved extensions including but not limited to conditional uses a final development plans in the past.

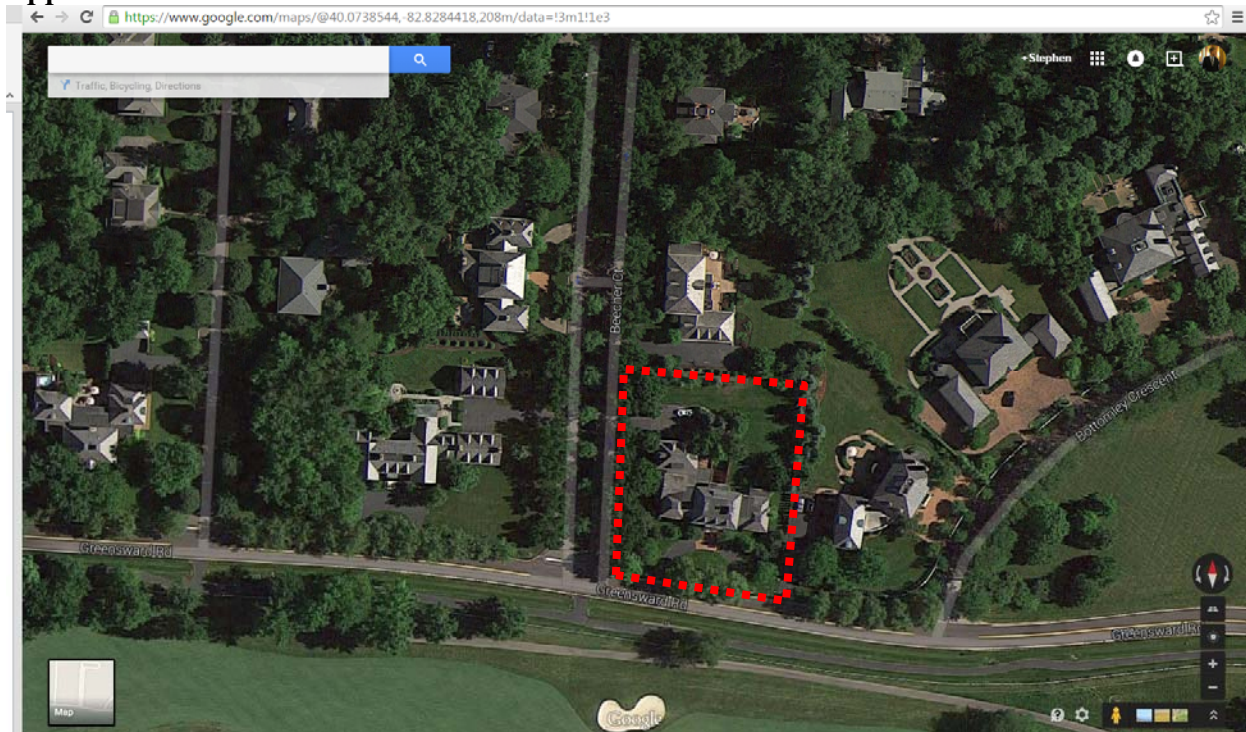
### III. ACTION

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 an extension of application V-24-2015, based on the findings in the staff report, subject to the following conditions:**

1. The variance extensions will become effective August 28, 2017, following tonight's meeting.
2. The variance extensions are permitted for one year, to expire August 28, 2018 and that any extension in time is reviewed and approved by the Board of Zoning Appeals.
3. The conditions of approval placed on the approval of the original variances by the Board of Zoning Appeals on May 27, 2015, as follows:
  - a. The garage is built as presented to the Board of Zoning Appeals with 4 sided brick, hip roof, and no cupola.
  - b. There is no dormer on the north elevation.
  - c. Landscape plan is completed as presented and discussed at the meeting from May 27, 2015.

#### Approximate Site Location:



Source: Google Maps