



Planning Commission

Meeting Minutes

November 18, 2019

7:00 p.m.

Planning Commission met in regular session in the Council Chambers at Village Hall, 99 W. Main Street and was called to order by Planning Commission Chair Mr. Neil Kirby at 7:04 p.m.

Those answering roll call:

Mr. Neil Kirby, Chair	Present
Mr. Brad Shockey	Present
Mr. David Wallace	Present
Mr. Hans Schell	Present
Ms. Andrea Wilttrout	Present
Mr. Sloan Spalding (council liason)	Present (arrived 7:05p.m.)

Staff members present: Steven Mayer, Development Services Coordinator; Chris Christian, Planner; Mitch Banchefsky, City Attorney; Ed Ferris, City Engineer; and Josie Taylor, Clerk

Mr. Kirby provided a correction for the October 21, 2019 Planning Commission minutes.

Ms. Taylor stated she would make the indicated correction.

Moved by Mr. Kirby, seconded by Mr. Wallace to approve the October 21, 2019 meeting minutes as corrected. Upon roll call: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Shockey, yea; Ms. Wilttrout, yea; Mr. Schell, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5 - 0 vote.

Mr. Kirby asked if there were any additions or corrections to the agenda.

Mr. Christian replied none from staff.

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

Mr. Kirby invited the public to speak on any non-agenda items. (No response).

FDM-91-2019 Faith Life Church Final Development Plan Modification
Final Development Plan modification for Faith Life Church located at 2407 Beech Road
(PID: 095-111510-00.000).

Applicant: Faith Life Church

Mr. Christian presented the staff report.

Mr. Kirby asked about engineering on the application.

Mr. Ferris replied Engineering recommended the stormwater basins be in accord with §11181 Stormwater Management Code.

Ms. Katarina Karac, attorney for the applicant, reviewed the application and asked if she could answer any questions.

Mr. Kirby asked Ms. Karac if the applicant agreed with the conditions from the staff report and Engineering.

Ms. Karac stated yes.

Mr. Schell asked what the intention was for development on the north part of the site.

Ms. Karac stated she believed it would remain as it currently was and there were no plans at this time.

Mr. Schell asked if there were any updates regarding prior issues with the neighbors.

Ms. Karac indicated the previous issues had been resolved and the neighbors had been notified of the current application and had not responded.

Moved by Mr. Kirby to accept the staff report and related documents into the record for FDM-91-2019, seconded by Ms. Wiltrout. Upon roll call vote: Mr. Kirby, yea; Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Wallace, yea; Mr. Shockey, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5 - 0 vote.

Moved by Ms. Wiltrout to approve FDM-91-2019 based on the findings in the staff report with the conditions listed in the staff and engineering reports, seconded by Mr. Schell. Upon roll call vote: Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Wallace, yea; Mr. Shockey, yea; Mr. Kirby, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5 - 0 vote.

VAR-96-2019 Variance

Variance to Ealy Crossing I-PUD zoning text section VI(c)(1) to allow a garage to setback 3.25 feet from the front of a home where the zoning text requires a minimum 10 foot setback at 10 South Ealy Crossing(PID: 222-004158-00).

Applicant: Brian Kent Jones dba The Jones Studio

Mr. Christian presented the staff report.

Mr. Kirby stated he believed there was no engineering on the application.

Mr. Ferris stated that was correct.

Mr. Brian Jones, applicant, stated the property owners Karen and John Morgan were also present to answer questions.

Mr. Kirby asked if it were a side yard instead of facing a public street, as the garage was behind the building facade, this application would not be here as a variance at all. Mr. Kirby stated, if it were a side loading garage they would not be here.

Mr. Mayer stated that was correct.

Mr. Kirby asked if the front door would be on Ealy Crossing South?

Mr. Jones stated the front door on this house was currently off of Hays Town, off of the courtyard, but the primary face massing of the house was geared toward Ealy Crossing. Mr. Jones noted the City's architect had reviewed the design.

Mr. Kirby noted it made the corner and let it turn the corner gracefully. Mr. Kirby complimented the renderings, saying they provided a good perspective.

Mr. Spalding complimented the design and asked if there would be gas lights.

Mr. Jones stated yes, perhaps on multiple locations due to the two (2) fronts.

Mr. Schell asked if there were any issues with any of the neighbors.

Mr. Jones stated no, they had not heard any.

Mr. Christian indicated that two (2) neighbors had contacted staff to support the application.

Mr. Schell asked if there was a Plan B.

Mr. Jones stated no, it would not be a buildable site without current design.

Mr. Wallace asked what was the square footage on the house.

Mr. Jones stated there was a requirement it be more than 3,000 square feet and they were currently in the 3,500 square foot range.

Mr. Kirby asked if there was a basement.

Mr. Jones stated yes.

Mr. Wallace stated there would be room to make the footprint smaller as they could get down to about 3,000 square feet.

Mr. Jones stated that given the community's price points, they were trying to get a house that was over that. Mr. Jones stated the objective was to stay at the 3,800 square foot range as below that it could hurt sales in the neighborhood.

Ms. Wilttrout asked what was the length of the driveway from the garage.

Mr. Jones stated the garage, from the curb to the front face of the garage, was about 25 feet, depending on where measured from.

Ms. Wiltrout asked if that was enough room for safety and visibility.

Mr. Jones stated they had worked on a home on Ealy Crossing North where the garage door openings were similarly placed and there was room there.

Mr. Wallace asked where the 25 feet measurement was taken from.

Mr. Jones stated he would need to check, but thought it was the right-of-way line to the center of the closest door.

Mr. Wallace asked where the right-of-way line was; was it the center of the street.

Mr. Kirby asked if that was on the house side of the sidewalk.

Mr. Jones presented a drawing showing the right-of-way line.

Mr. Wallace asked how that related to where the street started and the driveway began.

Mr. Jones stated he did not have that dimension, from the right-of-way to the curb, but generally, throughout Ealy, it varied from twelve (12) to fourteen (14) feet.

Mr. Kirby asked if one had to cross the sidewalk and the apron to get that twelve (12) to fourteen (14) feet.

Mr. Jones stated yes.

Mr. Kirby stated there were ten (10) to twelve (12) feet between the edge of the sidewalk, or wherever the right-of-way fell, to the door and asked if there was an expectation about in-driveway parking, not in the garage.

Mr. Jones stated no.

Mr. Kirby asked if it was deed restricted.

Mr. Jones stated he did not know, but would be happy to commit to that condition.

Mr. Wallace stated his concern was about vehicles backing out of the garage as a safety issue.

Mr. Kirby asked whether the issue was with the road or the sidewalk.

Mr. Wallace stated the sidewalk if there were people walking.

Mr. Kirby stated there was three-quarters or better of a car length to back out and the sightlines were effectively unrestricted as far as the angle went without landscape nearby.

Mr. Wallace asked if by the time the drivers' seat was out of the garage the back end of the car was not pretty close to the sidewalk.

Mr. Kirby stated yes.

Mr. Wallace noted that was the safety issue.

Mr. Jones stated there were like conditions in the neighborhood where garages were backing out directly onto the street.

Mr. Wallace stated the idea there were other safety problems in the neighborhood did not persuade him another should be added.

Mr. Shockey stated it had been approved that way, with a ten (10) foot setback, as part of the plat.

Mr. Jones stated the PUD had a five (5) to ten (10) foot setback throughout the neighborhood.

Mr. Shockey stated it was pretty common in New Albany where setbacks were less than the length of a car.

Mr. Kirby noted it might not work for a Suburban but would for a regular car.

Moved by Mr. Kirby to accept the staff report and related documents into the record for VAR-96-2019, seconded by Mr. Schell. Upon roll call vote: Mr. Kirby, yea; Mr. Schell, yea; Mr. Wallace, yea; Mr. Shockey, yea; Ms. Wiltrout, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5 - 0 vote.

Moved by Mr. Wallace to approve VAR-96-2019 based on the findings in the staff report, subject to the conditions in the staff report, subject to staff approval, and the condition that the driveway not be used for parking, seconded by Ms. Wiltrout. Upon roll call vote: Mr. Wallace, no; Ms. Wiltrout, yea; Mr. Schell, yea; Mr. Shockey, yea; Mr. Kirby, yea. Yea, 4; Nay, 1; Abstain, 0. Motion passed by a 4 - 1 vote.

Mr. Wallace noted he voted no because he believed the variance could be avoided.

Other Business

Engage New Albany Strategic Plan Update

Mr. Mayer presented the update. Mr. Mayer thanked Ms. Wiltrout and Mr. Schell for their participation in the Steering Committee.

Mr. Shockey asked for pictures.

Mr. Mayer stated they would provide a draft plan to the Planning Commission in January.

Mr. Shockey asked if pictures and drawings would be available sooner rather than later.

Mr. Mayer stated they were currently discussing the graphics and recommendations involved. Mr. Mayer noted they should be coming out with the draft plan.

Mr. Wallace asked Mr. Banchefsky for an update on the cell tower.

Mr. Banchefsky stated the matter was over.

With no further business, Mr. Kirby polled members for comment.

Mr. Shockey asked about future business.

Mr. Mayer stated there were a number of applications for December, 2019 and January, 2020. Mr. Mayer noted Mr. Christian had provided members with a 2020 schedule for Planning Commission meetings.

Mr. Kirby adjourned the meeting at 7:39 p.m.

Submitted by Josie Taylor.

APPENDIX

*NEW ALBANY COUNTRY CLUB SECTION 22- EALY CROSSING
GARAGE DOOR SETBACK VARIANCE*

LOCATION: 10 Ealy Crossing South (PID: 220-004158-00).
APPLICANT: Brian Kent Jones Architects
REQUEST: Variance
ZONING: I-PUD (Ealy Crossing Subarea B)
STRATEGIC PLAN Village Center
APPLICATION: VAR-96-2019

Review based on: Application materials received October 25 and October 31, 2019.

Staff report prepared by Chris Christian, Planner

I. REQUEST AND BACKGROUND

The applicant has applied for a variance for a residential structure at 10 Ealy Crossing South within the Ealy Crossing subdivision.

The variance requested is as follows:

- A. Variance to Ealy Crossing Subarea A section VI(c)(1) zoning text to allow a garage to be setback 3.25 feet behind the front face of the primary dwelling where the zoning text garages to be setback at least 10 feet behind the primary dwelling.

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

II. SITE DESCRIPTION & USE

The property is located at 10 Ealy Crossing South within the Ealy Crossing subdivision of the New Albany Country Club. The lot is 0.28 acres and is located on the corner of Ealy Crossing South and Hays Town. The lot is currently undeveloped. The surrounding uses include single family 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.

IV. RECOMMENDATION

Considerations and Basis for Decision

A. Variance to Ealy Crossing Subarea A section VI(c)(1) zoning text to allow a garage to be setback 3.25 feet behind the front face of the primary dwelling where the zoning text garages to be setback at least 10 feet behind the primary dwelling.

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

1. The PUD zoning text states that all front loaded garages shall be placed a minimum of ten (10) feet behind the front face of the primary dwelling. This requirement does not apply if garage doors are not visible from the public right-of-way.”
2. The applicant proposes construct their home with a garage that is setback 3.25 from the front façade of the primary dwelling rather than the required 10 feet and will be visible from Hays Town.
3. There are special conditions and circumstances that are peculiar to this specific property. While the site is .28 acres, a large portion of the site is undevelopable. The property extends into the existing stormwater basin and there is an additional 10 foot drainage and utility easement. In total, approximately .15 of the .28 acre lot is undevelopable. When the required lot line setbacks

are taken into consideration, there is only approximately .10 acres to develop on this property. The average lot size in the Ealy subdivision is .31 acres. There are only two lots in this subdivision, this lot and the lot to the north, that are both constrained by the stormwater basin, and the 10 foot utility and drainage easement. The buildable area of the lot to the north is .15 acres meaning that there is less buildable area for the lot requesting a variance.

4. The Ealy subdivision is a dense, urban subdivision. The spirit and intent of the zoning text requirement is to ensure that garages are not the primary feature of a home and are more secondary in nature. The city architect has reviewed the proposal and states that the overall home is very well designed given the limited buildable area of the lot. He also stated that it was more architecturally appropriate to have the garage face Hays Town rather than Ealy Crossing South as this is the primary Street in the subdivision. When considering the entire site context, the city architect states that the garage is clearly secondary in overall architectural massing and design.
5. The request does not seem to be substantial as the applicant is still placing the garage behind the primary building, it is just 6.75 feet closer than what is permitted by the zoning text.
6. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a “substantial detriment” by having the front facing garage since this is a very dense, urban neighborhood with very minimal setbacks. While the PUD text allows for more flexibility in design than other sections of the community, it allows for garages to face the street. The home across the street from this one has a front loading garage that is setback 10 feet from the primary building that is visible from the street.
7. It appears that granting the variance will not adversely affect the health and safety of persons residing in the vicinity.
8. It appears granting the variance will not adversely affect the delivery of government services.

Staff recommends approval of the requested variance should the Planning Commission find that the application has sufficient basis for approval. While Ealy Crossing is intended to be an urban neighborhood that allows for smaller setbacks than most other neighborhoods, there are unique circumstances to this property that limit the amount of buildable area. This is one of two lots in the Ealy Crossing subdivision that is located next to the stormwater basin and has a 10 foot utility and drainage easement in the rear yard of the property. The city architect has reviewed the proposal and comments that given the site constraints, this is an appropriate building design since it maintains the spirit and intent of the zoning requirement which is to ensure that garages are secondary in terms of overall site design and architectural hierarchy. Additionally, there is a home across the street from this property with a front loading garage that is visible from the street similar to this garage. Therefore, the variance does not appear to be substantial or the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a “substantial detriment.”

V. ACTION

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

Move to approve application V-96-2019 based on the findings in the staff report. Conditions of approval may be added.

Approximate Site Location:



Source: Google Maps

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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.

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and the 10 foot utility and drainage easement. The buildable area of the lot to the north is .15 acres meaning that there is less buildable area for the lot requesting a variance.

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V. ACTION

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Move to approve application V-96-2019 based on the findings in the staff report. Conditions of approval may be added.

Approximate Site Location:



Source: Google Maps