



Planning Commission

Meeting Minutes

December 16, 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 Wiltrout	Present
Mr. Sloan Spalding (council liason)	Absent

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 November 18, 2019 Planning Commission minutes.

Ms. Taylor stated she would make the indicated correction.

Moved by Mr. Wallace, seconded by Ms. Wiltrout to approve the November 18, 2019 meeting minutes as corrected. Upon roll call: Mr. Wallace, yea; Ms. Wiltrout, yea; Mr. Kirby, yea; Mr. Shockey, 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 and asked for cell phones to be silenced.

FPL-84-2019 Final Plat

Final Plat and parkland dedication fee in lieu for 5055 Johnstown Road (PID: 222-004747-00).

Applicant: Leslie Timmons c/o Aaron Underhill

VAR-101-2019 Variance

Variance to C.O. 1187.02(a) to not require street improvements when subdividing a lot for 5055 Johnstown Road (PID: 222-004747-00).

Applicant: Leslie Timmons c/o Aaron Underhill

Mr. Christian presented the staff reports for both FPL-84-2019 and VAR-101-2019.

Mr. Kirby asked for the Engineering review.

Mr. Ferris stated Engineering recommended three notes be added to the final plat: (a) drainage easements; (b) the resolution number once passed by City Council; and (c) add a note related to permanent survey markers. Mr. Ferris noted Engineering would recommend that this plat be reviewed by the Franklin County Engineer's office.

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

Mr. Kirby asked Ms. Karac if there were any concerns with the conditions in the two staff reports.

Ms. Karac stated no.

Mr. Kirby asked staff if there was sufficient right-of-way for a small road.

Mr. Mayer stated the right-of-way dedication agreement was for 26 feet and staff felt that should be appropriate.

Mr. Kirby noted the variance staff report mentioned it was only one (1) more house and asked how many houses would be too many for the road?

Mr. Mayer stated it was not based on a specific number of houses but on the number of vehicles that used the road. Mr. Mayer noted they were comfortable with the right-of-way dedication agreement and if needed could approach other neighbors for additional right-of-way agreements.

Mr. Kirby asked if with eleven (11) more lots it would still be good.

Mr. Mayer stated it could potentially, adding that the gravel road was fairly improved, with a ditch, and was also well maintained.

Mr. Kirby stated the neighbors to the west had five (5) acres and the neighbors just west of that had 22.5 acres and this was their only road. Mr. Kirby added it was conceivable it could work for both of those parcels even if the latter did establish eleven (11) lots of two (2) acres each.

Mr. Mayer stated that if and when that occurred the City could determine if the amount of traffic warranted a road improvement.

Mr. Kirby asked where the applicant had obtained the value of \$150,000 per acre indicated in the application.

Ms. Karac stated the applicant provided that number. Ms. Karac stated the applicant had completed several appraisals, some with the existing building, and adjustments were made to provide only the value of the land without buildings.

Mr. Kirby stated that provided an initial valuation of \$396,000 ($\$150,000 \times 2.64$ acres).

Ms. Karac stated she believed that was correct.

Mr. Kirby asked if that could be a condition of approval.

Ms. Karac asked what the question was.

Mr. Kirby stated when the lot was split the new lot would need a valuation and asked if they would be willing to give that number to the auditor.

Mr. Shockey stated that when the lot was divided it would get a parcel number and the Franklin County appraiser would assign a valuation to it which could be greater or less than \$150,000.

Mr. Kirby stated that was per acre.

Mr. Shockey stated he did not know that in a parcel split an owner ever gives the auditor a value of what the owner wants or expects the lot to be.

Mr. Kirby stated the village had an interest in the valuation to establish a reasonably current tax base and, as this lot was to be for a family member, a proper valuation would be needed as there might not be a sale value available.

Mr. Shockey stated the auditor would still assign a value regardless of how the transfer occurred.

Mr. Banchefsky asked if such valuations were not typically low.

Mr. Shockey stated they could be.

Mr. Mayer stated they did have an appraised valuation and the Code stated value should be based on the pre-developed value of only the land without improvements. Mr. Mayer stated the applicant had taken the total five acre lot value, with the house, and used calculations to determine the land value.

Mr. Kirby stated 29%.

Mr. Mayer added he thought the applicant had appraised the lot and then, to be fair to the city, provided a value they felt better reflected the market.

Mr. Kirby noted the value seemed reasonable and sensible but indicated he did not know who set a value on a new lot.

Mr. Shockey stated the auditor did the valuation.

Mr. Kirby stated the Village had an interest in that valuation.

Mr. Shockey stated he was concerned on establishing the fee-in-lieu-of amount.

Mr. Kirby stated he believed the number was fine in that regard.

Ms. Wiltrout asked if the .05 multiplier was established by Code to determine the fee-in-lieu.

Mr. Mayer stated it was based on 2,400 square feet, which was less than .05, so they were rounding up.

Ms. Wiltrout stated they were fine with the multiplier used.

Mr. Shockey asked if the property was ready to be sold.

Ms. Karac stated she believed it was listed with a realtor.

Mr. Shockey asked what the listing price was.

Ms. Karac stated she did not know that.

Mr. Shockey asked if it was listed at \$150,000 or a higher price.

Ms. Karac stated she was not sure what it was listed for.

Mr. Schell asked if all of the neighbors had been notified and asked if any had responded.

Mr. Christian stated two neighbors, Temple Beth Shalom and another neighbor had both been supportive of the request.

Ms. Wiltrout asked where the driveway for the second lot would be.

Ms. Karac stated it was to be determined if it would be a shared driveway or independent driveways.

Ms. Wiltrout stated thank you.

Ms. Karac stated the realtor on the property was Ms. Jill Beckett.

Mr. Shockey asked to confirm it was listed.

Ms. Karac stated yes.

Mr. Kirby noted some of the information provided in the packet was difficult to read and requested that reductions to this extent not be repeated.

Mr. Mayer stated absolutely.

Mr. Shockey agreed.

Mr. Mayer indicated they could look for a full size for review at this time.

Mr. Shockey stated regardless of who the applicant was a clear plat should be provided.

Ms. Wiltrout stated she had viewed it as one being the plat as approved and the other provided additions to the plat.

Mr. Wallace noted that a different sheet in the packet that provided the same information was legible while the other was a bit fuzzy.

Mr. Mayer indicated Mr. Christian would search for a full size.

Mr. Shockey asked if a full size would be required.

Mr. Ferris noted a full sized sheet would be provided initially which would then be reduced after it was recorded.

Mr. Mayer stated Mr. Wallace was correct, the copy of the plat without the yellow highlight contained all the same comments and notes as the other copy.

Mr. Kirby asked if this was not new text.

Ms. Wiltrout stated correct, the text that was new was the text that was highlighted.

Mr. Wallace stated it was not new, it was proposed text.

Ms. Wiltrout agreed it was proposed.

Mr. Wallace said bigger copies could be requested, but he had no problem with them.

Ms. Karac noted a higher resolution version could perhaps be pulled up.

Mr. Wallace indicated where the writing was legible in the packet. Mr. Wallace noted that the variance application noted the 2014 Strategic Plan did not identify the gravel road as a future public street nor envisioned any extensions or road connections. Mr. Wallace added that a new Strategic Plan was being worked on currently and there was property to the west that could potentially be developed. Mr. Wallace said the City now focused on road connections, which this area was ripe for, and asked what could be done with this property in light of that.

Mr. Kirby noted there were two (2) properties to the west.

Mr. Mayer noted it extended past the creek.

Mr. Kirby stated they may have access to another right-of-way.

Mr. Wallace stated this presented an opportunity to think ahead.

Ms. Wiltout asked if the road in the right-of-way could be bigger.

Mr. Mayer stated there was a right-of-way dedication agreement which the City was comfortable with. Mr. Mayer noted that if the parcels were developed they would need to get right-of-way dedications or future right-of-way agreements on a parcel by parcel basis.

Mr. Wallace asked if the city would not have to build and pay for the road.

Mr. Mayer stated that was true and had been discussed.

Mr. Wallace stated this might be an opportunity to condition something on this piece.

Mr. Schell asked who owned the gravel road leading up to the Timmons' land.

Mr. Mayer stated it was Temple Beth Shalom and another homeowner there.

Mr. Schell asked if these two owners were fine with this application.

Mr. Mayer stated yes, they had both called in and stated their support to Mr. Christian.

Mr. Wallace asked about the practical effect of the owners' choice to make this a subdivision rather than a lot split.

Mr. Kirby stated they could not do otherwise.

Mr. Mayer stated there was not a choice; City Code defined a subdivision as the creation of any lot less than five (5) acres.

Mr. Shockey stated the City of Columbus and many Ohio government entities had something called a 'minor subdivision' that was generally four lots or less.

Ms. Karac stated that sounded right.

Mr. Shockey stated New Albany did not have that in its Code so the applicant was forced into the subdivision process, which was very expensive and sometimes not the right thing for minor subdivisions.

Mr. Wallace stated that helped him think through the variance issue a little better.

Mr. Kirby and Mr. Shockey stated the applicant had been forced to do it this way.

Mr. Shockey stated the vacant lot was listed for \$750,000 and noted there would be a time and a place where the next potential applicant could be turned down because there was a gravel access to what he or she wanted to do with the land. Mr. Shockey noted that the next applicant could then indicate the Planning Commission (hereafter, "PC") had established a precedent with the current applicant. Mr. Shockey asked if there could be a provision indicating there was a burden on the owners of the two parcels, if and when there was a subdivision that required improvements to be made, so they could be notified of the burden and costs.

Mr. Mayer stated that on Crescent Pond it was a driveway, not a road.

Mr. Shockey stated it was a platted, private road.

Mr. Banchefsky noted that the Plain Township Fire Department would have a say as to how many lots or homes would be too many for the road. Mr. Banchefsky added that, secondly, as to who would build and pay for the road, the City had the ability to build the road and assess the costs back to all adjoining owners.

Ms. Wiltrout asked if that was by statute or in the right-of-way.

Mr. Banchefsky stated that was in the Ohio Revised Code and the City Code.

Mr. Wallace asked if that meant that if City determined the gravel road was insufficient to serve the traffic the City could build the public road and assess the homeowners that fronted that.

Mr. Banchefsky stated yes and the City also had the broader power of eminent domain.

Mr. Wallace asked what the cost of a new road was.

Mr. Shockey stated it was priced at about \$300 per foot.

Mr. Banchefsky stated if it was an assessment at least two appraisers would be hired to allocate the costs and the Equalization Board would vote on that.

Mr. Kirby asked the basis under which the Equalization Board would determine the costs.

Mr. Banchefsky stated the Equalization Board had formulas they used for that.

Mr. Kirby stated experience with private roads was not fantastic.

Mr. Shockey stated the plat should include language to notify future buyers of the potential future road and assessment.

Mr. Wallace noted the public was charged with constructive knowledge and buyers had a duty to explore.

Mr. Shockey asked if the burden was on the buyer even without a note.

Mr. Wallace stated that if Ohio law allowed that, then yes.

Mr. Mayer noted the recorded plat from 1878 and the right-of-way dedication agreements, which he believed were recorded, provided notice.

Ms. Karac noted there would be an agreement between the two (2) property owners with restrictions placed on how the adjoining lot could be developed and would include a stipulation that they dedicate a 26 foot right-of-way, as agreed with the City.

Mr. Wallace stated the plat could be made to state that as a courtesy.

Mr. Banchefsky stated he thought it would be too nebulous at this point to put it on a plat.

Mr. Wallace noted this might lead to multiple eventualities then having to be included as well.

Ms. Wilttrout stated caveat emptor.

Mr. Kirby asked if an easement would be needed for the driveway as it crossed lot lines.

Ms. Karac stated there would be an agreement in place with the new owner and a plan to record a private easement.

Mr. Schell asked why the fee-in-lieu value was being established at this time rather than after the sale occurred.

Mr. Shockey stated that, normally, the fee-in-lieu of was established at the time of the plat.

Mr. Mayer stated the subdivision regulations directed that it be evaluated at the time of the platting process.

Ms. Wilttrout asked if that number of \$150,000 was based on an appraisal and asked how the \$150,000 value was determined.

Ms. Karac stated there had been appraisals on the value of the existing lot with the house on it which was too high. Ms. Karac stated the auditor's valuation had been too low based on the surrounding area's market rates. Ms. Karac stated they doubled the

auditor's land appraisal value which was in agreement with the appraisal completed if the structure had not been on the land.

Ms. Wiltrout asked how the value of the land without the buildings had been determined.

Ms. Karac stated she did not have the appraisal with her and Mr. Underhill had completed that process. Ms. Karac asked if staff was aware of how that was accomplished.

Mr. Mayer stated it should be part of the submittal packet. Mr. Mayer indicated the applicant had appraised the entire 5.5 acre parcel and used the auditor's valuation for land and buildings to determine a percent to use to value the land.

Ms. Wiltrout stated that was the 29%.

Mr. Kirby stated yes.

Mr. Mayer noted that was what Code required.

Mr. Wallace stated the number was based on the entire parcel now rather than what it would be worth after it was split.

Mr. Kirby said they determined the value of the land portion using the portion of the value the land contributed to the auditor's total parcel value.

Mr. Wallace stated right, but that value was based on one (1) house being on the land and now they were splitting that lot to sell it and he did not know the total value for the property. Mr. Wallace asked if that was in the appraisal.

Mr. Kirby stated the market value from the auditor was \$823,500 for the property and \$239,600 for the land only.

Mr. Mayer stated the appraisal was \$1.2 million for everything.

Mr. Shockey asked if they had broken out the land.

Mr. Mayer stated yes.

Ms. Wiltrout asked if the amount of the fee-in-lieu was something the Parks and Trails Advisory Board set.

Mr. Mayer stated the Code directed the applicant to submit an appraisal, which explained the calculation used for the land value, and the Parks and Trails Advisory Board was in support of that number.

Ms. Wiltrout asked if they could require an appraisal as part of the conditions.

Mr. Shockey noted that would provide a value after the sale but they were required to value the lot as part of the plat. Mr. Shockey stated the split lot could be valued alone, adding that just because the property was for sale at \$750,000 did not mean that would be the sale price. Mr. Shockey asked if there was a buyer for it now.

Ms. Karac stated she was not aware of one.

Mr. Shockey noted an appraisal could be prepared by a qualified appraiser and then be resubmitted to staff to determine a fee-in-lieu-of based on that.

Mr. Wallace stated yes, because he thought the value of the end property, once built, should be five (5) times the value of the lot. Mr. Wallace added that if one multiplied \$750,000 by five (5) it resulted in almost \$4 million, so the \$750,000 seemed a little rich to him.

Mr. Kirby stated a value of \$150,000 per acre resulted in a value of \$396,000 for the entire lot, so \$396,000 was their number while \$750,000 was what they were telling the world they wanted to sell it for.

Ms. Wiltrout stated that did not seem to be skewed.

Mr. Shockey asked if the \$7,500 fee-in-lieu-of amount was based on approximately \$400,000 in value.

Ms. Karac stated that sounded right.

Mr. Wallace stated that sounded a little better.

Ms. Karac stated she did not know if this helped, but noted that the \$1.2 million value was what the appraiser had determined based on other similar sized homes in the area. Ms. Karac stated the seventy percent (70%) was the house and the thirty percent (30%) was just the land and thirty percent (30%) of \$1.2 million was how they calculated that number, which seemed more accurate than the auditor's valuations.

Mr. Shockey noted it may have been easier to bring the appraisal in. Mr. Shockey asked what had been done with the fees-in-lieu on Harlem Road.

Mr. Mayer stated the applicants there had done something very similar.

Mr. Shockey asked if it had been based on a similar type of calculation.

Mr. Mayer stated he did not recall, but assumed they had submitted a type of appraisal.

Moved by Ms. Wiltrout to accept the staff reports and related documents into the record for FPL-84-2019 and VAR-101-2019, seconded by Mr. Wallace. Upon roll call vote: Ms. Wiltrout,

yea; Mr. Wallace, yea; Mr. Schell, yea; Mr. Kirby, yea; Mr. Shockey, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5 - 0 vote.

Mr. Banchefsky stated that City Council would make the final call on the fee-in-lieu based on the value of park land in the City, so a formal appraisal was not really required.

Ms. Wiltrout asked if the fee-in-lieu of figure was determined by City Council.

Mr. Banchefsky stated yes, ultimately.

Moved by Ms. Wiltrout to approve FPL-84-2019 based on the findings in the staff report with the conditions listed in the staff and engineering reports, seconded by Mr. Shockey. Upon roll call vote: Ms. Wiltrout, yea; Mr. Shockey, yea; Mr. Wallace, yea; Mr. Kirby, yea; Mr. Schell, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5 - 0 vote.

Moved by Ms. Wiltrout to approve VAR-101-2019 based on the findings in the staff report with the conditions listed in the staff report, 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.

Other Business

Engage New Albany Strategic Plan Update

Mr. Mayer presented the update.

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

Mr. Shockey stated he would be traveling from January 2020 through March of 2020.

Mr. Kirby stated he would not be at the regular March 2020 meeting, which was the organizational meeting.

Mr. Mayer said they would see if that could moved.

Mr. Wallace noted that if Mr. Shockey and Mr. Kirby were not at the meeting then the other three members of the PC had to attend the meeting for there to be a quorum.

Mr. Kirby adjourned the meeting at 8:29 p.m.

Submitted by Josie Taylor.

APPENDIX

***5055 JOHNSTOWN ROAD
PRELIMINARY & FINAL PLAT***

LOCATION: 5055 Johnstown Road (PID: 222-004747-00)
APPLICANT: Leslie Timmons c/o Aaron Underhill
REQUEST: Preliminary & Final Plat
ZONING: Timmons Limitation Text (L-R-1)
STRATEGIC PLAN: Neighborhood Residential District
APPLICATION: FPL-84-2019

Review based on: Application materials received October 4 and November 6, 2019

Staff report completed by Chris Christian, Planner

I. REQUEST AND BACKGROUND

The applicant requests review of a combined preliminary and final plat for the creation of a 2-lot subdivision off of a private road near Johnstown Road.

The applicant is requesting to pay a fee-in-lieu for parkland dedication as well as sidewalk installation.

In addition, the applicant requests a variance to C.O. 1187.02(a) to not require the installation of the required street improvements. This variance will be evaluated at the December 16, 2019 Planning Commission meeting in a separate variance staff report.

II. SITE DESCRIPTION & USE

The site is located west of Johnstown Road, and south of Thompson Road. According to the Franklin County Auditor the site is currently a single parcel approximately 5.28 acres in size. This parcel contains one single family residence on the southwest side of the parcel. The applicant proposes to create two 2.640 acre lots.

III. EVALUATION

Planning Commission's review authority of the final plat is found under C.O. Section 1187. Upon review of the final plat the Commission is to make recommendation to City Council. The applicant is also requesting to pay a fee-in-lieu rather than providing the required parkland dedication. C.O. 139.05(e) states that the Parks and Trails Advisory Board shall provide the Planning Commission, prior to its action on a final plat, a recommendation regarding the suitability of open space and parkland or a fee-in-lieu thereof.

Staff's review is based on New Albany plans and studies, zoning text and zoning regulations. Primary concerns and issues have been indicated below, with needed action or recommended action in underlined text.

- The applicant requests to split their property into two lots. The existing lot currently is developed with a single family dwelling. The creation of an additional developable lot is permitted in the property's zoning text which was reviewed and approved by the Planning Commission on January 21, 2015 (ZC-110-2014).
- The creation of the additional lot meets Codified Ordinance Chapter 1187(1)(g)'s definition of a subdivision and therefore must provide all the required parkland, open space, and infrastructure improvements listed in C.O. Chapter 1187.02.
- Per C.O. 1187.15(a) the basic mandatory land dedication with each plat shall be twenty- four hundred (2,400) square feet per dwelling unit. This plat includes one new lot, so the applicant proposes to dedicate 2,400 square feet of land to the city. Per C.O. 1187.15(d) the mandatory land dedications may be waived when Council has adopted a motion establishing a priority for payment in lieu fees instead of accepting land dedications.
 - C.O. 1187.15(d)(3) states that the an appraisal shall be conducted, completed and submitted to the city prior to final plat approval as part of a fee-in-lieu request. The city's subdivision regulations states the appraisal shall be based upon the average value per acre of the site prior to construction or improvements.
 - The applicant submitted two different land appraisal values as part of the application.
 - The first is a land appraisal that includes the total value of the existing property with the improvements that have been made, which places a total value of the property at \$1,200,000. In 2018, the Franklin County Auditor placed a per acre valuation of \$65,909 for this property based on their calculations which is 29% of the total value of the land, prior to improvements.

The applicant recognizes the auditor's valuation may be too low given the market conditions for land sales in New Albany and therefore has provided a second valuation of their property at \$150,000 per acre. the applicant states that this more accurately reflects the price of undeveloped residential land in New Albany currently.
- The applicant is requesting to pay a fee-in-lieu in the amount of \$7,500 ($\$150,000 \times 0.05 \text{ acres} = \$7,500$).
- C.O. 139.05(e) states that the Parks and Trails Advisory Board shall provide the Planning Commission, prior to its action on a final plat, a recommendation regarding the suitability of parkland or a fee-in -lieu thereof. The Parks and Trails Advisory Board reviewed the applicant's proposed fee-in-lieu payment of \$7,500 and recommended approval of the request.
- Because the lot is over 2 acres in size, the open space requirement of C.O. 1187.16(a) applies which states that 20% of the gross developed area must shall be common open space that must be accessible by roadway or public access easement. The applicant is meeting this open space requirement by providing an 85 foot wide preservation zone that extends from the rear property lines of both properties which totals 1.05 acres or 20% of the gross area. This area is located off of a tributary to the Rocky Fork Creek and the plat states that no structures, pavement or other permanent improvements shall be permitted with the exception to allow the removal of dead,

diseased or invasive species. This is an appropriate location on the properties to establish an open space area in order to maintain the health of the tributary.

- C.O. 1187.16(b) states that publicly and privately owned open space must be accessible by roadway or public access easement. In order to satisfy this requirement, staff recommends a condition of approval that the plat shall contain a note indicating that, at after any real property that is adjacent to the 85-foot preservation area shown on the plat becomes available for public use, a leisure trail shall be permitted to be installed and used within the preservation area.
- The Parks and Trails Advisory Board recommended approval of the open space area.

- The “Timmons Limitation Text (L-R-1) has following development standards:

<i>Standard</i>	<i>Required</i>	<i>Proposed</i>	<i>Comments</i>
Min. lot size	40,000 ft ²	114,998 ft ²	requirement is met
Min. lot width	150 ft	155 feet	requirement is met
Min. Front Yard	50 feet	*Applies at time of site development	
Min Side Yard	20 feet	*Applies at time of site development	
Min Rear Yard	50 feet	*Applies at time of site development	
Max Building Height	45 feet	*Applies at time of site development	

- The applicant states that no environmental impact statement is necessary as part of this application.
- C.O. 1187.06(10) requires accurate outlines and delineation of all drainage easements, one hundred year floodway routing, flood hazard areas and other watercourses be shown on the plat. In order to meet these requirements, staff recommends a condition of approval that the applicant prepare a hydraulic study to determine the limits of the 100 year floodplain of the tributary to the Rocky Fork that runs along the rear property lines of these properties and this be added to the plat.
- The applicant is requesting to pay a fee-in-lieu for the installation of sidewalk. This request will be reviewed and approved by City Council per C.O. 1187.18(a).

IV. ENGINEER’S COMMENTS

The City Engineer has reviewed the referenced plan in accordance with the engineering related requirements of Code Section 1187.06 and provided the following comment(s):

1. Refer to Exhibit A for an example of a subdivision plat previously recorded in the City. Where applicable, update all note blocks on the referenced plat to match what is shown

Staff recommends the City Engineer’s comments are complied with and subject to staff approval. The engineering comments can also under separate cover from the consulting City Engineer, E.P. Ferris & Associates.

V. RECOMMENDATION

Basis for Approval: The final plat is generally consistent with and meets city code requirements and related planning documents.

VI. ACTION

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

Move to recommend approval to council of FPL-84-2019 with the following conditions, subject to staff approval:

1. The plat shall contain a note indicating that, at after any real property that is adjacent to the 85-foot preservation area shown on the plat becomes available for public use, a leisure trail shall be permitted to be installed and used within the preservation area.
2. The tributary to the Rocky Fork that runs along the rear property lines of these properties be studied and the base 100-year flood plain elevations are established on the plat.
3. Address the comments of the City Engineer, subject to staff approval.

Approximate site location:



Source: Google Earth

**5055 JOHNSTOWN ROAD
STREET INFRASTRUCTURE IMPROVEMENTS VARIANCE**

LOCATION: 5055 Johnstown Road (PID: 222-004747-00)
APPLICANT: Leslie Timmons c/o Aaron Underhill
REQUEST: Variance to C.O. 1187.02(a) to not require the installation of street infrastructure improvements.
ZONING: Timmons Limitation Text (L-R-1)
STRATEGIC PLAN: Neighborhood Residential District
APPLICATION: VAR-101-2019

Review based on: Application materials received November 15, 2019

Staff report completed by Chris Christian, Planner

IV. REQUEST AND BACKGROUND

The applicant has applied for a variance as part of a final plat application for the subdivision of the property at 5055 Johnstown Road.

The variance requested is as follows:

- A. Variance to C.O. 1187.02(a) to not require the installation of street infrastructure improvements.

II. SITE DESCRIPTION & USE

The site is located west of Johnstown Road, and south of Thompson Road. According to the Franklin County Auditor the site is currently a single parcel approximately 5.28 acres in size. This parcel contains one single family residence on the southwest side of the parcel. The portion of the lot proposed to subdivided is located on the eastern portion of the lot to create two 2.640 acre lots.

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 Commission 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 C.O. 1187.02(a) to not require the installation of street infrastructure improvements.

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

1. The applicant requests to subdivide their property into two lots through the final plat process. The creation of these two lots meets Codified Ordinance Chapter 1187(1)(g)’s definition of a subdivision and therefore must provide all the required improvements listed in C.O. Chapter 1187.02. Since it is a subdivision, the street improvement requirements found in C.O. 1187.02(a) are required. However, since this subdivision is located along a private road, many of the improvements are already installed.
2. The city’s subdivision require that “street improvements shall consist of grading the right-of-way for full width; construction of curbs or curbed gutters and pavement; construction of draining structures and appurtenances.” The existing road has a ditch that provides adequate drainage for this area.
3. The property is subject to an 1878 plat which allows this property and other adjacent properties access to a private road. This private road is still in existence today and is a gravel drive that serves this property, one to the east and one to the west. The applicant requests a variance to allow the gravel drive to remain.
4. The variance is not substantial. The applicant is seeking a relief from a provision that would require them to build a portion of a public street that runs along their property while the remaining portions of the road would remain gravel as the city cannot require the applicant to provide these improvements on any area that is not part of the plat.
5. The essential character of the neighborhood would not be substantially altered or adjoining properties suffer a “substantial detriment” by granting the variance. The current road condition of the surrounding properties would remain the same as they have been since 1878 regardless of whether or not the applicant’s variance request is granted. Installing a portion of an improved street will create an inconsistent road design and pattern.
6. It appears that there are special conditions and circumstances which are peculiar to the land that justify the variance request. This property and surrounding properties are subjected to an 1878 plat which shows the private road along the southern property lines in this area. The 2014 New Albany Strategic Plan does not identify this road as a future public street nor does it envision any future road connections or extensions, therefore improving the road is not necessary. Additionally, the applicant has submitted a future right-of-way agreement with the city, as required at the

- time of the rezoning, which allows the city to acquire right-of-way in the future, if desired
7. It is meeting the spirit and intent of the code requirement which is to ensure there is access to public streets. At the moment, there are only four users of this road, therefore it appears that the current road is adequate and serving its purpose as more of a shared driveway rather than a road. Due to the future right-of-way agreement, if at any time it is deemed necessary to ensure public access, the city is able to acquire the right-of-way. Additionally, this area is largely agrarian in nature with larger more rural lots, therefore the unimproved, gravel drive is in character with the area.
 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.

Staff recommends approval of the requested variance should the Planning Commission find that the application has sufficient basis for approval. The applicant and surrounding property owners have access to a private road that is established on an 1878 plat. The 2014 New Albany Strategic Plan does not identify this private, gravel road as a future public street nor does it envision any extensions or road connections. Since there will be only 4 properties that use this drive once the property is subdivided, it acts more as a shared driveway. The existing gravel road is appropriate. . In addition, the applicant only has the ability to install the required street improvements on their property, meaning that the adjacent properties would still be serviced by a gravel drive even if the applicant were to install the required improvements. Therefore the essential character of the neighborhood would not be altered by granting the variance. The variance is not substantial, due to the future right-of-way agreement, the city may at any time acquire the right-of-way in this location in the future.

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-101-2019 based on the findings in the staff report. Conditions of approval may be added.

Approximate Site Location:



Source: Google Maps