AGENDA

I. Call To Order

II. Roll Call

III. Action of Minutes: February 24, 2020

IV. Additions or Corrections to Agenda
Swear in All Witnesses/Applicants/Staff whom plan to speak regarding an application on tonight’s agenda. “Do you swear to tell the truth and nothing but the truth”.

V. Hearing of Visitors for Items Not on Tonight's Agenda

VII. Cases:

APL-9-2020 Appeal
Appeal to city staff’s interpretation of garage “floor area” as defined in C.O. 1105.02(t) for the property located at 4646 Wilkin Court (PID:222-000962-00).
Applicant: Elizabeth Kessler c/o Pete Griggs, Brosius, Johnson and Griggs LLC

VAR-21-2020 Variance
Variance request to Innovation Zoning District text section II(D)(c) to allow a sidewalk to encroach the required 25 foot pavement setback along Innovation Campus Way (PID: 095-111372-00.010).
Applicant: Dave Kaldy

VIII. Other Business
1. Annual Organizational Meeting
   o Swear in new members
   o Elect Chairperson
   o Elect Vice-Chairperson
   o Elect Secretary
   o Establish date, time, and location for 2020 regular meetings

*Standard Rules of Procedure for New Albany Boards and Commissions states attendance of all current serving members of the Commission/Board is encouraged, and three consecutive absences by any member or four absences in any year shall be considered a forfeiture of the membership to the Commission/Board. The forfeiture would occur regardless of the reason for the absences. Attendance would be defined as presence during the hearing and consideration of all applications before that Commission/Board at that meeting. The chairperson would then notify the Clerk of Council so that she can inform Council that a new appointment needs to be made.
IX. Poll members for comment

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

Those answering roll call:

Mr. Everett Gallagher Present
Mr. Kirk Smith Present
Ms. Andrea Wiltrout Present
Ms. Kerri Mollard Absent
Mr. Shaun LaJeunesse Absent
Ms. Marlene Brisk (council liaison) Present

Staff members present: Steven Mayer, Development Services Manager; Chris Christian, Planner; and Josie Taylor, Clerk.

Ms. Wiltrout stated a correction to the October 28, 2019 meeting minutes.

Ms. Taylor stated she would make that change.

Moved by Mr. Smith to approve the October 28, 2019 meeting minutes, as corrected, seconded by Ms. Wiltrout. Upon roll call: Mr. Smith, yea; Ms. Wiltrout, yea; Mr. Gallagher, yea. Yea, 3; Nay, 0; Abstain, 0. Motion passed by a 3-0 vote.

Mr. Gallagher asked for any corrections or additions to the agenda.

Mr. Christian stated none from staff.

Mr. Gallagher swore to truth those wishing to speak before the Board of Zoning Appeals.

Mr. Gallagher asked if there was anyone who wanted to discuss any items not on tonight's Agenda. (No response).

**VAR-3-2020 Variance**

Variance request to C.O. 1165.04(a)(1) to allow an existing non-conforming structure to be enlarged and exceed the 1,600 square foot maximum area requirement at 12 New Albany Farms Road (PID: 222-000993).

**Applicant: Alyssa Lowry**

Mr. Christian presented the staff report.

Moved by Ms. Wiltrout to accept the staff report and related documents into the record, seconded by Mr. Smith. Upon roll call vote: Ms. Wiltrout, yea; Mr. Smith, yea; Mr. Gallagher, yea. Yea, 3; Nay, 0; Abstain, 0. Motion carried by a 3-0 vote.

Mr. Gallagher asked if the applicant wanted to speak.

Ms. Lowry stated she had nothing to add but was able to answer any questions.

Mr. Smith stated he had no questions.

Ms. Wiltrout stated she had no questions.
Mr. Gallagher stated the proportionality made sense.

Moved by Ms. Wiltrout to approve application VAR-3-2020, seconded by Mr. Smith. Upon roll call vote: Ms. Wiltrout, yea; Mr. Smith, yea; Mr. Gallagher, yea. Yea, 3; Nay, 0; Abstain, 0. Motion carried by a 3-0 vote.

**VAR-4-2020 Variance**
Variance requests to C.O. 1165.06(a)(2)(D) to allow an accessory structure to be located 28 feet from the primary structure, where city code requires the structure to be setback 58 feet from the primary structure; and C.O. 1165(a)(1) to allow an accessory structure to have an area which is 6.9% of the lot, where the city code permits a maximum of 5% at 7747 Sutton Place (PID: 222-002102).
**Applicant:** f5 Design c/o Todd Parker

Mr. Christian presented the staff report.

Moved by Mr. Smith to accept the staff report and related documents into the record, seconded by Ms. Wiltrout. Upon roll call vote: Mr. Smith, yea; Ms. Wiltrout, yea; Mr. Gallagher, yea. Yea, 3; Nay, 0; Abstain, 0. Motion carried by a 3-0 vote.

Mr. Gallagher asked if the applicant wished to speak.

Mr. Parker stated this was a simple filling-in and the footprint would not change.

Mr. Gallagher asked for any questions or comments.

Mr. Smith stated he had no questions.

Ms. Wiltrout stated she had no questions.

Ms. Brisk asked about ingress and egress onto the lawn.

Mr. Parker stated it was tied to the pool area that would have concrete on it.

Ms. Brisk stated you would walk right onto the concrete.

Mr. Parker stated yes.

Mr. Gallagher asked if the neighbors had been notified.

Mr. Parker stated yes.

Moved by Mr. Smith to approve application VAR-4-2020, seconded by Ms. Wiltrout. Upon roll call vote: Mr. Smith, yea; Ms. Wiltrout, yea; Mr. Gallagher, yea. Yea, 3; Nay, 0; Abstain, 0. Motion carried by a 3-0 vote.

**Other Business**

Mr. Gallagher asked if staff had any other business.

Mr. Mayer stated none from staff.
Moved by Mr. Smith, seconded by Ms. Wiltrout, to adjourn the meeting. Upon roll call vote: Mr. Smith, yea; Ms. Wiltrout, yea; Mr. Gallagher, yea. Yea, 3; Nay, 0; Abstain, 0. Motion carried by a 3-0 vote.

Meeting adjourned at 7:15 pm.

Submitted by Josie Taylor.
I. REQUEST AND BACKGROUND

The applicant requests a variance to allow an existing structure to be enlarged and exceed the 1,600 square foot maximum area requirement.

The existing structure has an area of 3,050 square feet and was permitted in 2008 prior to the adoption of the current code requirement. Therefore it is an existing, non-conforming accessory structure. Because construction on the existing portion of the structure is complete and the permit is closed, the addition is reviewed under the current code requirements. The applicant is proposing to add an additional 1,360 square feet to the structure for a total area of 4,410 square feet.

C.O. 1165.04(a)(1) states that the maximum permitted area for a detached structure on a lot larger than 2 acres is 1,600 square feet therefore a variance is required. According to the Franklin County Auditor website, the lot is 15.04 acres in size.

II. EVALUATION

The application complies with 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. EVALUATION
Considerations and Basis for Decision

A variance request to C.O. 1165.04(a)(1) to allow an existing structure to be enlarged and exceed the 1,600 square foot maximum area requirement.

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

1. The applicant is proposing to construct a 1,360 square foot addition onto an existing structure that is 3,050 square feet. C.O. 1165.04(a)(1) states that the maximum permitted area for a detached structure on a lot larger than 2 acres is 1,600 square feet therefore a variance is required. The existing structure was built in 2008, prior to the adoption of the current code requirement. A variance was approved to allow the existing structure to 32 feet tall where code permitted a maximum height of 10 feet (V-8-2008).

2. The variance request meets the spirit and intent of the requirement which is to ensure that detached structures are properly scaled in relation to the size of the lot. Additionally, the code requirement was intended to set benchmark maximum area requirements for all lots with the understanding that there would be instances, such as this one where a variance would be required for larger lots with more development space. 95% of the lots within New Albany are two acres or less and only 5% are greater than 2 acres. The current code allows for an additional 400 square feet of space for every acre, starting at a maximum of 800 for lots less than 1 acre. According to the Franklin County Auditor the lot is 15.04 acres in size, making it one of the largest residential lots in the city. The garage appears to be appropriately scaled considering the size of the lot.

3. The variance does not appear to be substantial. While the structure is larger than what is permitted
by code, the structure takes up less than 1% of the total lot area. Additionally, all of the structures on site have a total lot coverage of only 2.66%.

4. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a “substantial detriment.” The property is located within the New Albany Farms subdivision which is made up of the largest residentially used properties in New Albany therefore this structure will not alter the character of the neighborhood. Additionally, the structure will maintain a 350 foot setback from the nearest residential structure which is what the current setback is today without the addition.

5. It appears that the variance will not adversely affect the delivery of government services, 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

Staff supports the variance request. Even though the proposed addition to this existing structure is larger than what is permitted by code, the structure is appropriately scaled considering this size of the lot. With the addition, the structure takes up less than 1% of the total lot area and only 2.66% if all the existing structures are taken into account. The new code requirement was created with the understanding that there would be instances, such as this one, where variances would be needed for larger lots with more development space. Additionally, the structure will not change the essential character of the neighborhood as it will maintain a 350 foot setback from the nearest residential structure which is what the current setback is today. The property is located within the New Albany Farms subdivision which is made up of the largest residentially used properties in New Albany where these larger detached structures are appropriate.

V. ACTION

In accordance with C.O. 1113.06, “Within thirty (30) days after the public hearing, the Board of Zoning Appeals shall either approve, approve with supplementary conditions, or disapprove the request for appeal or variance.” If the approval is with supplementary conditions, they should be in accordance with C.O. Section 1113.04. The decision and action on the application by the Board of Zoning Appeals is to be based on the code, application completeness, case standards established by the courts, and as applicable, consistency with village plans and studies.

Should the Board of Zoning Appeals find that the application has sufficient basis for approval, the following motion would be appropriate:

Move to approve variance request V-3-20 (conditions of approval may be added)
General Site Location:

Source: Franklin County Auditor
ACCESSORY STRUCTURE VARIANCES
NACC 16A - 7747 SUTTON PLACE

LOCATION: 7747 Sutton Place
APPLICANT: 5F Design c/o Todd Parker
REQUEST:
(A) A variance request to C.O. 1165.06(a)(2)(D) to allow a recreational structure to be located 28 feet away from the primary structure, where code requires this recreational structure to be located 58 feet away from the primary structure;
(B) A variance request to C.O. 1165(a)(1) to allow a recreational structure to have an area which is 6.9% of the lot, where city code permits a maximum of 5%.
ZONING: R-3
APPLICATION: V-4-20
STRATEGIC PLAN: Neighborhood Residential

II. REQUEST AND BACKGROUND
On February 25, 2019 the Board of Zoning Appeals approved four variances for a new field house to be constructed at 7747 Sutton Place. The applicant has modified the approved 2019 plans to enclose a covered porch area thereby adds 104 square feet to the structure. Due to this change, the applicant is exceeding what was previously approved by the BZA including permitted lot coverage and distance between a recreational structure and a primary structure. The applicant is requesting new variances due to these changes.

(A) C.O. 1165.06(a)(2)(D) to allow a recreational structure to be located 28 feet away from the primary structure, where code requires this recreational structure to be located 58 feet away from the primary structure. The Board of Zoning Appeals previously approved a 33 foot setback.
(B) C.O. 1165(a)(1) to allow a recreational structure to have an area which is 6.9% of the lot, where city code permits a maximum of 5%. The Board of Zoning Appeals previously approved 6.13% lot coverage.

II. EVALUATION
The application complies with C.O. 1113.03, and is considered complete. The Property owners within 200 feet of the property in question have been notified. This variance request to a previous version of the Chapter 1165 city code section which was in effect at the time that this project was permitted.
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. EVALUATION
Considerations and Basis for Decision

A. A variance request to C.O. 1165.06(a)(2)(D) to allow a recreational structure to be located 28 feet away from the primary structure, where code requires this recreational structure to be located 58 feet away from the primary structure.

The following should be considered in the Board’s decision:
6. On February 25, 2019, the Board of Zoning Appeals approved a variance to allow the recreational structure to be setback 33 feet from the primary residence.
7. The applicant is proposing to enclose a covered porch which will add an additional 104 square feet to the recreational structure. Since it is now enclosed, the distance between the recreational structure and the primary structure is now 28 feet.
8. C.O. 1165.06(a)(2)(D) states that, “an accessory structure shall maintain a proportional distance of two (2) feet for every foot in height (2:1) from the main building.
9. Since the accessory structure is 29 +/- feet tall, the proposed distance from the primary structure must be 58 +/- feet in order to meet code requirements.
10. The request does not seem to be substantial since the variance is to a setback from the homeowner’s own residence. Additionally, the Board of Zoning Appeals previously approved a variance to allow this same structure to be setback 33 feet from the primary structure. The applicant is proposing to enclose a covered porch which results in the structure being located 28 feet from the primary structure which is 5 feet closer than what was originally approved.

11. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a “substantial detriment.” The recreational structure was originally approved with a covered porch, the applicant is simply closing it in. The recreational structure appears to be designed to complement the agrarian characteristics within this area of the community.

12. The property appears to have special conditions and circumstances since it is oddly shaped, and not a typical rectangular or square lot. The triangle shape at the southeast corner, limits the amount of area where the proposed structure can be located on the lot since the lot narrows as it approaches the street.

13. It appears that the variance will not adversely affect the delivery of government services, 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.

a. A variance request to C.O. 1165(a)(1) to allow a recreational structure to have an area which is 6.9% of the lot, where city code permits a maximum of 5%.

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

1. On February 25, 2019, the Board of Zoning Appeals approved a variance to allow the recreational structure to be 6.13% of the total lot area.

2. The applicant is proposing to enclose a covered porch which will add an additional 104 square feet to the recreational structure. Since it is now enclosed, the total area of the recreational structure is now 1,611 square feet which is 6.9% of the total lot area.

3. Codified Ordinance Section 1165.06(a)(1) states a detached recreational structure shall not:
   
   A. Occupy more than twenty-five percent (25%) of a required rear yard, plus forty percent (40%) of any non-required rear yard; Or
   i. The required rear yard is 30 feet. 6,428.7 feet is 25% of the required rear yard. There is no additional non-required rear yard space within the proposal. 25% of the required rear yard is 1,607.18 square feet.
   ii. With the additional 104 square feet the recreational structure is exceeding this size requirement by approximately 4 square feet.

   B. Provided that in no instance shall the storage building or recreational structure exceed the ground floor area of the main building:
   i. The ground floor area of the house is 2,334 square feet according to the Franklin County Auditor and the entire home is 5,058 square feet. The proposed structure does not exceed the floor area.

   C. Or five percent (5%) of the total lot, whichever is less
   i. The lot is 0.53 acres (23,086.8 square feet) according to the Franklin County Auditor. Five percent (5%) of this total lot area is 1,154.34 square feet.
   ii. The proposed structure is 6.9% of the lot, and exceeds this area requirement.

4. The request does not seem to be substantial given that the recreational structure still appears to be ancillary relative to the primary residence and the additional 104 feet of enclosed space is along an elevation that faces the primary structure. So the structure is not being built closer to neighbors or public streets. The structure is located on the side and rear of lot which is approximately 350 feet away from residences along Reynoldsburg- New Albany Road. Additionally, the Board of Zoning Appeals previously approved a variance to allow the recreational structure to occupy 6.13% (1,507 s.f.) of the lot, the applicant is proposing to add 104 square feet of enclosed space which equates to...
6.9% of the lot which is not significant. 

5. The variance appears to preserve the “spirit and intent” of the zoning requirement since the recreational structure is appropriately located on the site in relation to the house, as well as having an appropriate and well-designed exterior which matches the agrarian feel of this area of the City. Although the proposed recreational structure has a larger area than allowed, the applicant has designed the accessory building to be made with a secondary material and shorter than the primary two-story home. Therefore, the recreational structure is well designed and scaled to appear as an accessory structure and is appropriate for its surroundings. This proposed structure would not be an appropriate structure for a typical home within the country club, however in relation to its location on the edge of the community, the proposed structure is appropriate.

6. It appears that the essential character of the area will not be substantially altered or suffer a substantial detriment by the approval of the variance since the proposed structure will not substantially alter the character of the area since it is located on the edge of the country club and borders a rural, undeveloped, lot with only neighbors on two sides of the lot.

7. Below is a list of applications that have requested the same variance, for a similar type of structure. Please note detached garages are not included in this list since they have different height and area requirements than recreational structures. Historically the BZA and PC have approved height and area variance for similar sized detached garages on larger lots of record.

<table>
<thead>
<tr>
<th>Address</th>
<th>Proposed Height</th>
<th>Lot Size</th>
<th>House Size</th>
<th>Proposed Area</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>7228 Greensward Dr</td>
<td>19 feet</td>
<td>0.65 Acres</td>
<td>6,829 sq. ft.</td>
<td>1,040 sq. ft.</td>
<td>Approved</td>
</tr>
<tr>
<td>6057 Johnstown Rd.</td>
<td>27 feet and 8 inches</td>
<td>1.41 Acres</td>
<td>4,047 sq. ft.</td>
<td>1,566 sq. ft.</td>
<td>Approved</td>
</tr>
<tr>
<td>6958 Lambton Park</td>
<td>N/A</td>
<td>6.5 Acres</td>
<td>11,561 sq. ft.</td>
<td>9,100 sq. ft.</td>
<td>Approved</td>
</tr>
</tbody>
</table>

8. It appears that the variance will not adversely affect the delivery of government services, 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

In summary, staff supports these variance requests. The request is to allow an enlargement of a previously approved variance. When the variance was first approved, the accessory structure did not meet one of the three area regulations (five percent of the total lot). With the additional 104 square feet of enclosed space the accessory structure does not meet two of the three area regulations (five percent of the total lot and twenty-five percent of a required rear yard). However, the two variance requests do not appear substantial since it is covered porch space and the enclosed area does not result in the structure being constructed closer to neighbors or public streets. Even though this is a smaller lot than other lots which have received similar variances, since the proposed structure is located at the end of a subdivision, at the end of the road, and adjacent to an agrarian area of the community, it will not change the essential character of the area. Therefore, the character of the neighborhood would not be substantially altered as a result of the variance. The city architect reviewed the drawings and stated that the proposed barn design is appropriate for the area.

V. ACTION
In accordance with C.O. 1113.06, “Within thirty (30) days after the public hearing, the Board of Zoning Appeals shall either approve, approve with supplementary conditions, or disapprove the request for appeal or variance.” If the approval is with supplementary conditions, they should be in accordance with C.O. Section 1113.04. The decision and action on the application by the Board of Zoning Appeals is to be based on the code, application completeness, case standards established by the courts, and as applicable, consistency with village plans and studies.

**Should the Board of Zoning Appeals find that the application has sufficient basis for approval, the following motion would be appropriate:**

Move to approve variance request V-4-20 (conditions of approval may be added).

General Site Location:

[Map Image]

Source: Franklin County Auditor
LOCATION: 4646 Wilkin Court (PID: 222-000962-00)
APPLICANT: Elizabeth Kessler c/o Pete Griggs, Brosius, Johnson & Griggs LLC
REQUEST: Appeal to staff’s interpretation of “floor area” found in Codified Ordinance Chapters 1105.02(t)
STRATEGIC PLAN: Neighborhood Residential District
ZONING: R-3 and R-4
APPLICATION: APL-09-2020


Staff report prepared by Chris Christian, Planner

I. REQUEST AND BACKGROUND
The application is an appeal to staff’s interpretation of “floor area” found in Codified Ordinance Chapter 1105.02(t). The applicant is appealing the interpretation of floor area regarding a building permit that was issued for a detached garage at 4646 Wilkin Court. The site plan submitted in the building permit included an open porch attached to the garage that staff did not include in the detached garage’s area calculation per the definition of floor area in Codified Ordinance 1105.02(t).

The applicant is appealing staff’s interpretation of this code section, stating that the area of the open porch should have been included in the floor area calculations for this structure. The area of the open porch is 169 square feet and if it was included in the floor area calculations it would have resulted in the garage being over the maximum allowable, 800 square foot size per C.O. 1165.06(c)(4).

Per Codified Ordinance Section 1113.01(a) Appeals to the Board of Zoning Appeals concerning interpretation or administration of this Ordinance by a staff member may be taken by any person aggrieved including a tenant, or by a governmental officer, department, board, or bureau, unless otherwise specified in this chapter. Such appeal shall be taken within twenty (20) days after the date of the decision, by filing with the Board of Zoning Appeals, a notice of appeal specifying the grounds thereof.

II. SITE DESCRIPTION & USE
The parcel is 0.50 acres according to the Franklin County Auditor’s website and currently has a single family home constructed on it. The property is located in Section 1 of the New Albany Country Club—Bottomly Crescent. According to the Franklin County Auditor’s website the home was built in 1990.

III. ASSESSMENT
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.
IV. EVALUATION

Considerations and Basis for Decision

The following information in addition to application submittal information and meeting presentations and discussions should be considered in the Board’s decision for the requested appeal:

- This application is an appeal to staff’s interpretation of “floor area” as defined in Codified Ordinance Chapter 1105.02(t).
- The applicant is appealing the interpretation of floor area regarding a building permit that was issued for a detached garage at 4646 Wilkin Court. Codified Ordinance Chapter 1105.02(t) (Definitions) reads:
  - “Floor area” of a building means the sum of the gross horizontal areas of the building floors, measured from the exterior faces of exterior walls. “Floor area” shall not include basements, elevator and stair bulkheads, unfinished attic spaces, terraces, breezeways, open porches, uncovered steps, or garages.
- At the time that the permit was submitted, new code changes to C.O. 1165 were not in effect therefore the previous code requirements still applied. Codified Ordinance Chapter 1165.06(c)(4) (Accessory Uses or Structures) read:
  - Area. 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 city’s Codifies Ordinance does not define “area.” C.O. 1105.02(v) defines “Garage, private” as a building, or portion of building, designed or used for the storage of motor-driven vehicles owned and/or used by the occupants of the principal use of the property. Historically city staff has interpreted “area” in city’s Accessory Structure regulations (C.O. 1165.06(c)(4)) to mean “floor area” in the city’s Definitions Chapter (C.O. 1105) based on the enclosed (walled) area of a detached garage since the city’s Codified Ordinances define a private garage as the portion of the building used by the property owners for storage of vehicles and does not include patio space.
- Based on these definitions staff’s methodology for calculating the size/area of a detached garage is based on the floor area within the exterior faces of the exterior walls (enclosed space).
- City staff calculates the detached garage as having a gross floor area of 776 square feet. City staff did not include the open porch that is attached to the garage in the area calculation requirements per the definition found in C.O. 1105.02(t) which states that open porches shall not be included in floor area calculations. The applicant is appealing staff’s interpretation of this code section, stating that the area of the open porch should have been included in the floor area calculations for this structure. The area of the open porch is 169 square feet and if it was included in the floor area calculations it would have resulted in the garage being over the maximum, allowable 800 square foot size.

V. RECOMMENDATION

If the Board finds that Staff’s interpretation of “floor area” is correct, the appeal should be denied. If, on the other hand the Board finds that Staff’s decision was in error, the applicant’s appeal should be upheld, which would require the property owner at 4646 Wilkin Court to either revise the garage so that it meets the 800 square foot maximum or apply for a variance.

VI. ACTION AND STANDARD OF REVIEW

The Board of Zoning Appeals shall hear and decide the appeal for APL-9-2020. The action by the board shall be to approve, approve with supplementary conditions, or disapprove the request for appeal.

Per the law director’s office, the standard of review is as follows. In order to approve/affirm the applicant’s appeal, the Board of Zoning Appeals must find staff’s interpretation of the applicable city code provisions to be unconstitutional, illegal, arbitrary, capricious, unreasonable or
unsupported by a preponderance of substantial, reliable or probative evidence based on the whole of the record.

Accordingly, if the Board of Zoning Appeals finds that staff’s interpretation of “floor area” is incorrect, and should include the area of the porch, the Appellant’s appeal should be approved/affirmed.

Absent such a finding, the city’s interpretation of 1105.02(t), should be accepted and the appeal disapproved/denied.

The motion should always be made in the affirmative. An appropriate motion for this appeal would be “To make a motion to grant the appeal filed by Elizabeth Kessler c/o Pete Griggs, Brosius, Johnson & Griggs LLC for application APL-9-2020.”

For the Board’s clarification:
  A. Approval of the appeal would override staff’s decision to deny this proposal.
  B. Disapproval of the appeal would confirm staff’s decision to deny this proposal.

Approximate Site Location:

Source: Google Earth
COVER SHEET

DATE: 2/18/20  NUMBER OF PAGES INCLUDING COVER  9

TO: New Albany Board of Zoning Appeals, c/o Mitchell H. Banchefsky, City of New Albany Law Director

FIRM: _____________________________

FAX NO.: (614) 939-2234

FROM: Pete Griggs

SUBJECT: Notice of Appeal of Elizabeth Kessler, 4646 Wilkin Court

COMMENTS:

Mitch —

Please see the attached notice of appeal documents regarding the accessory structure located at 4646 Wilkin Court.

Sincerely,

CONFIDENTIALITY NOTICE

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS CONFIDENTIAL AND IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE NAMED ABOVE. THIS INFORMATION MAY BE PRIVILEGED, CONFIDENTIAL, AND/OR EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service. We will reimburse you for the postage. THANK YOU.
February 18, 2020

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND FACSIMILE

New Albany Board of Zoning Appeals
c/o Mitchell H. Banchefsky, City of New Albany Law Director
99 West Main Street, P. O. Box 188
New Albany, Ohio 43054
Fax: (614) 939-2234

Subject: Notice of Appeal
Accessory Structure Located at 4646 Wilkin Court, New Albany, Ohio, 43054

Dear Mitch,

As you know, our firm represents Elizabeth Kessler, the owner of property located at 4633 Yantis Drive, New Albany, Ohio, 43054. The owners of the property located at 4646 Wilkin Court, New Albany, Ohio, 43054 (the “Property”), which is directly west of Ms. Kessler’s property, sought and received City of New Albany zoning staff approval of a large accessory structure containing a garage, party room, and covered porch (the “Structure”) close to the rear property line. Construction of the Structure has begun and is ongoing.

It is our understanding from your letter, received on January 31, 2020, that the New Albany zoning staff has determined that the Structure meets the provisions of the New Albany Zoning Code (the “Zoning Code”). Specifically, staff measured the “enclosed area of the garage,” that is, the garage and party room portions of the Structure, as containing an area of 776 square feet, which is within the maximum area of 800 square feet permitted under Zoning Code Section 1165.04(a)(1). The covered porch portion of the Structure was not included in that area calculation because the definition of “Floor Area” contained in Zoning Code Section 1105.02(t) expressly excludes the area of “open porches.”

This letter and accompanying documents constitute Ms. Kessler’s notice of appeal of the determination made by the New Albany zoning staff that the Structure meets the provisions of the Zoning Code, on the grounds set out herein. Furthermore, this notice of appeal supersedes and replaces the prior notice of appeal provided to the City of New Albany via U.S. Mail and facsimile on or about January 29, 2020. Ms. Kessler’s prior notice of appeal is hereby withdrawn. The required appeal fee of $250 was previously provided to the City of New Albany, and we ask that you apply that appeal fee to this current appeal.

Based on the provisions of the Zoning Code and available information, it is clear that the Structure exceeds the area permitted under Zoning Code Section 1165.04. First, Zoning Code Section 1165.04, the provisions applicable to Detached Structures, refers to an accessory structure’s “area,” not its “Floor Area,” for determining whether the structure complies with the area restrictions. In fact,
throughout the Zoning Code, “Floor Area” is a defined term only used to calculate the area of principal structures. Second, even if “Floor Area” is the proper area calculation for use with Detached Structures, the definition of “Floor Area” expressly excludes both “open porches” and “garages,” and yet, the square footage of the garage area of the Structure was included in the area of 776 square feet calculated by staff.

Practically speaking, we understand that excluding the area of a garage in a structure like this would create illogical outcomes as well as exclusions that nullify the rule, but so does excluding the area of an open or covered porch. Furthermore, hypothetically, if a resident could have one Detached Structure and one Recreational Amenity on his or her property, each would be required to comply with the respective maximum area provisions under the Zoning Code. But what seems to have happened here is that the open or covered porch portion of the Structure has been completely excluded for the purposes of area where the two structures are attached. Put more simply, if the legislative authority has determined that the area of an open or covered porch must be regulated when it stands alone, why should it be exempt when it is attached to another, even larger, structure?

Certainly, upon careful review of these provisions of the Zoning Code, the natural conclusion of these observations is that the entire area is the proper calculation with respect to an accessory structure like the Structure at issue here. Calculating the area of the Structure as the area of the garage, party room, and covered porch, the Structure exceeds 800 square feet and should be reduced accordingly to bring it into compliance with the Zoning Code.

Please let us know the date this matter will be set for hearing before the New Albany Board of Zoning Appeals, and if you require any additional information.

Sincerely,

BROSius, JOHNson & GRIGGS, LLC

By ________________________________

Peter N. Griggs, Esq.

PNG/jlh
Community Development Department
Planning Application

Site Address: 4666 Wilkin Court, New Albany, Ohio 43054
Parcel Number: 222:000962:00
Acres: 50

Choose Application Type
- Appeal
- Certificate of Appropriateness
- Conditional Use
- Development Plan
- Plat
- Lot Changes
- Minor Commercial Subdivision
- Vacation
- Variance
- Extension Request
- Zoning

Choose all Details that Apply
- Preliminary
- Final
- Comprehensive
- Amendment
- Combination
- Split
- Adjustment
- Amendment (rezone)
- Text Modification

Elizabeth P. Kessler, the Property Owner identified below, appeals the determination made by the New Albany zoning staff as reflected in Law Director Mitchell Banchefsky's letter received January 31, 2020, that the accessory structure located at 4666 Wilkin Court meets the provisions of the New Albany Zoning Code. See attached.

Property Owner's Name: Elizabeth P. Kessler
Address: 4633 Yardia Drive
City, State, Zip: New Albany, Ohio 43054
Phone number: (414) 464-3563*
Fax: 614.224.2211*
Email: parigis@biglaw.net*

* - Attorney Pote Griggs, Brosius, Johnson & Griggs, LLC, on Ms. Kessler's behalf

Applicant's Name: 
Address: 
City, State, Zip: 
Phone number: 
Fax: 
Email: 

Site visits to the property by City of New Albany representatives are essential to process this application. The Owner/Applicant, as signed below, hereby authorizes Village of New Albany representatives, employees and appointed and elected officials to visit, photograph and post a notice on the property described in this application. I certify that the information herein within and attached to this application is true, correct and complete.

Signature of Owner
Signature of Applicant

Date: 2/18/2020

99 West Main Street • P.O. Box 188 • New Albany, Ohio 43054 • Phone 614.959.2214 • Fax 614.959.2214
<p>| Development Plan – Preliminary PUD or Comprehensive | Planning fee | First 10 acres | $750.00 |
| Development Plan – Final PUD | Planning fee | First 10 acres | $650.00 |
| Development Plan – Non-PUD | Planning fee | no lots on either side of street | $350.00 |
| Development Plan / Text Amendment | Engineering fee | lots on one side of street | $1.00 / LF |
| Plat – Road Preliminary | Engineering fee | Minimum fee | $1.00 / LF |
| Plat – Road Final | Engineering fee | no lots on either side of street | $850.00 |
| Plat – Subdivision Preliminary | Engineering fee | lots on one side of street | $1.00 / LF |
| Appeal | Engineering fee | Minimum fee | $1.00 / LF |
| Certificate of Appropriateness | Engineering fee | 1-25 lots | $155.00 / each |
| ARB – single and two family residential | Engineering fee | Minimum fee | $109.00 |
| ARB – All other residential or commercial | Engineering fee | 26 – 50 lots | $887.00 |
| ARB - Signage | Engineering fee | Each additional lot over 26 | $75.00 / each |
| Conditional Use | Engineering fee | Over 51 lots | $5750.00 |
| Development Plan – Preliminary PUD or Comprehensive | Engineering fee | Each additional lot over 51 | $50.00 / each |
| Development Plan – Final PUD | Engineering fee | Each additional 5 acres or part thereof | $50.00 / each |
| Development Plan – Non-PUD | Engineering fee | 1-25 lots | $155.00 / each |
| Development Plan / Text Amendment | Engineering fee | (minimum fee $1,000.00) | $155.00 / each |
| Plat – Road Preliminary | Engineering fee | 26 – 50 lots | $887.00 |
| Plat – Road Final | Engineering fee | Each additional lot over 26 | $75.00 / each |
| Plat – Subdivision Preliminary | Engineering fee | Over 51 lots | $5750.00 |
| Plat – Subdivision Preliminary | Engineering fee | Each additional lot over 51 | $50.00 / each |</p>
<table>
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<th>Fees &amp; Submittal Requirements</th>
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Plat - Subdivision Final

**Planning**

- Engineering fee 1-25 lots (minimum fee $1,000.00)
  - Plus each lot: $15.00 / each
  - Total: 650.00

- Engineering fee 26-50 lots
  - Each lot over 26: 75.00 / each
  - Total: 3875.00

- Engineering fee Over 51 lots
  - Each lot over 51: 50.00 / each
  - Total: 1200.00

Lot Changes

- Minor Commercial Subdivision: 200.00
- Vacant (Street or Easement): 200.00
- Vacancy: 1200.00

Variance

- Non-single family, commercial, subdivision, multiple properties: 600.00
- Single Family residence: 250.00
- In conjunction with Certification of Appropriateness: 100.00

Extension Request: 0.00

Zoning

- Rezoning - First 10 acres: 700.00
- Each additional 5 acres or part thereof: 50.00 / each
- Rezoning to Rocky Fork Blacklick Accord: 250.00
- Text Modification: 600.00

Easement Encroachment: 800.00
January 23, 2020

Peter N. Griggs, Esq.
Brosius, Johnson & Griggs, LLC
1600 Dublin Road, Suite 100
Columbus, OH 43215-1076

Dear Mr. Griggs:

In my capacity as New Albany’s law director, I am responding to your January 15, 2019 letter, regarding the complaint regarding an alleged zoning code violations at the property located at 4646 Wilkins Court.

On October 18, 2019, new city code requirements for accessory structures, including detached garages, became effective. Staff reviews applications against the code requirements in place at the time of submittal to our office. Since this application was submitted to the city on October 10, 2019 it was evaluated under the ‘old’ code provisions. It is the city’s position that the application met all of the city code requirements that were effective prior to October 18th.

Your letter specifically questions the methodology for calculating size/area requirements for a detached garage with an attached pergola. Staff calculated that the area of the garage was 776 square feet based on the site plan submitted. The site plan included an open porch attached to the garage that staff did not include in the area calculation per the definition of floor area in Codified Ordinance 1105.02(t). This code section states that floor area is calculated based on the sum of the gross horizontal areas of the building floors, measured from the exterior faces of exterior walls. It further states that "floor area" shall not include basements, elevator and stair bulkheads, unfinished attic spaces, terraces, breezeways, open porches, uncovered steps, or garages. Codified Ordinance 1105.02(v) states "Garage, private" means a building, or portion of building, designed or used for the storage of motor-driven vehicles owned and/or used by the occupants of the principal use of the property. Staff applied the floor area definition to the private garage application and measured the enclosed area of the garage (the outside walls). Staff approved the size of the garage because it did not exceed the 800 square foot maximum required by code.
While the City Code may not be totally clear on this point, it is my position that staff's interpretation and application of the code was reasonable.

That being said, your client has a right to appeal the staff interpretation floor area as defined in C.O. 1105.02(t) through the Board of Zoning Appeals. Per Codified Ordinance Section 1113.01(a) appeals to the Board of Zoning Appeals concerning interpretation or administration of this Ordinance by a staff member may be taken by any person aggrieved including a tenant, or by a governmental officer, department, board, or bureau, unless otherwise specified in this chapter. Such appeal shall be filed within twenty (20) days of the receipt of this letter, delivered via certified mail, by filing with the Board of Zoning Appeals, a notice of appeal specifying the grounds thereof.

Sincerely,

[Signature]

Mitchell H. Banchefsky
City of New Albany Law Director

Letter sent via certified mail
I. REQUEST AND BACKGROUND
The applicant requests a variance to the Innovation District Limitation text section II(D)(c) to allow a five foot sidewalk to encroach the required 25 foot pavement setback along Innovation Campus Way.

Per C.O. section 1113.05 property owners within 200 feet of the property in question have been notified.

II. SITE DESCRIPTION & USE
The site is located within Licking County in the portion of the business park known as the Personal Care and Beauty Campus. The neighboring properties are zoned to allow the same limited General Employment District uses. The site is surrounded by other General Employment zoned and used sites including the original Axium building to the west, Bocchi and Mast Global to the east, Magnanni to the north and Voyant (formerly known as Vee-Pak) to the south. The site will be used by Axium Plastics and a 96,900 square foot building is currently under construction on site.

III. ASSESSMENT
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. EVALUATION
Considerations and Basis for Decision

Variance to Innovation District Limitation Text section II(D)(c) to allow a five foot sidewalk to encroach the required 25 foot pavement setback along Innovation Campus Way.

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

1. The site is zoned L-GE (Limited-General Employment) under the Innovation District Limitation Text. The limitation text requires a 25 foot pavement setback from Innovation Campus Way.
2. The applicant requests a variance to allow a 5 foot sidewalk to encroach the required 25 foot pavement setback along Innovation Campus Way. The applicant states that this sidewalk connects the 24/7 employee entrance on the side of the building to the parking lot on the site. The building’s front entrance is the primary entry for the office space and is only accessible during business hours.
3. The proposed sidewalk will connect the primary employee access door to the parking lot and the leisure trail system along Smith’s Mill Road.
4. The variance does not appear to be substantial. The applicant is proposing a minimal encroachment into the pavement setback. Plus, the 5 foot wide sidewalk improves the overall connectivity on the site and provide a connection into the leisure trail system.
order to provide additional onsite connectivity, staff recommends a condition of approval that the permitted sidewalk shown at the office entrance be connected to the proposed sidewalk.

5. The variance preserves the “spirit and intent” of the zoning requirement and “substantial justice” would be done by granting the variance. Connections from a parking lot to the public leisure trail system are permitted, therefore only a portion of this proposed sidewalk requires a variance as depicted below. The sidewalk space shown in green is permitted and the sidewalk space in red requires a variance. The zoning text encourages pedestrian connections throughout the site and to public trails. The applicant states that the addition of sidewalk will enhance connectivity on site.

6. The essential character of the neighborhood will not be substantially altered since Innovation Campus Way serves as a truck route for the Personal Care and Beauty Campus. The section of street primarily serves trucks and therefore has limited required improvements. Additionally, the applicant is required to install the landscaping required per the Personal Care and Beauty Campus Landscape Standards and granting this encroachment will not impact the landscaping so the streetscape and character will not be impacted.

7. It does not appear that the variance would adversely affect the delivery of government services.

8. It appears that the variance will not adversely affect the delivery of government services, 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.

V. RECOMMENDATION
Staff recommends approval of the variance request. This encroachment is limited to a five foot sidewalk which is not substantial. This sidewalk will enhance connectivity on site as well as connect into the leisure trail system along Smith’s Mill Road which is encourages by the zoning text. Furthermore, the encroachment is along a truck road and will not alter the established visual aesthetic along Innovation Campus Way.

VI. ACTION
In accordance with C.O. 1113.06, “Within thirty (30) days after the public hearing, the Board of Zoning Appeals shall either approve, approve with supplementary conditions, or disapprove the request for appeal or variance.” If the approval is with supplementary conditions, they should be in accordance with C.O. Section 1113.04. The decision and action on the application by the Board of Zoning Appeals is to be based on the code, application completeness, case standards established by the courts, and as applicable, consistency with city plans and studies.

**Should the Board of Zoning Appeals find that the application has sufficient basis for approval, the following motion would be appropriate:**

Move to approve variance request V-21-2020 with the following conditions.

1. The sidewalk at the office entrance must be connected into the proposed sidewalk, subject to staff approval.

**Approximate Site Location:**

![Google Earth Image]
Site Address: 8982 Innovation Campus Way, New Albany, OH 43054
Parcel Numbers: 095-111372-00.010
Acres: # of lots created:

Choose Application Type | Circle all Details that Apply
------------------------|------------------------------------------
☐ Appeal | Preliminary | Final | Comprehensive | Amendment
☐ Certificate of Appropriateness | Preliminary | Final
☐ Conditional Use | Combination | Split | Adjustment
☐ Development Plan | Easement | Street
☐ Plat
☐ Lot Changes
☐ Minor Commercial Subdivision
☐ Vacation
☐ Extension Request
☐ Zoning | Amendment (rezoning) | Text Modification

Description of Request: Variance for sidewalk within the 25' building and pavement setback.

Property Owner’s Name: Kenneth Miranda
Address: 9005 Smith’s Mill Rd
City, State, Zip: New Albany, OH 43031
Phone number: 614-706-5955
Fax: 
Email: kmiranda@axiumplastics.com

Applicant’s Name: Dave Kaly
Address: 49 E Third Ave
City, State, Zip: Columbus, OH 43201
Phone number: 614-469-7500
Fax: 
Email: dkaly@archali.com

Site visits to the property by City of New Albany representatives are essential to process this application. The Owner/Applicant, as signed below, hereby authorizes Village of New Albany representatives, employees and appointed and elected officials to visit, photograph and post a notice on the property described in this application. I certify that the information here within and attached to this application is true, correct and complete.

Signature of Owner: Kenneth Miranda
Date: 02/27/2020
Signature of Applicant: Dave Kaly
Date: 02/27/2020
February 28, 2020

Subject: Axium Warehouse and Truck Lot, Sidewalk Variance
Address: 9043 Smiths Mill Rd, North, New Albany, OH 43054
Project No.: 018180

Dear Zoning Board of Appeals,

On behalf of Axium Packaging, we are applying for a variance for a sidewalk to be built within the 25 feet building and pavement setback. This sidewalk would serve as a way to the factory employee entrance and provide connectivity to the 8 foot leisure trail and the parking lot. This new entrance would allow Axium to have two entrances into their building creating a safe environment. Separate entrances will help unwanted access to the office area and keep the office aspects confidential to plant employees. The office will be accessed by key card access only and the factory will be accessed by both key card and turnstile. These safety security precautions help protect against modern day threats.

Below are the justifications for the variance in accordance with City Code Chapter 1113.

(a) Name, address and phone number of the applicant.
   a. Dave Kaldy, 49 E Third Ave, Columbus, OH 43201, (614)-469-7500

(b) Legal description of property as recorded in Franklin County Recorder's office.
   a. 8982 Innovation Campus Way, New Albany, OH 43054, Parcel 095-111372-00.010

(c) Each application for a variance or appeal shall refer to the specific provisions of this Ordinance which apply.
   a. 1135.05 – Development Standards. (c) Minimum Front Yard Depth. Twenty-five (25) feet.
   b. 1165.06 – Connectivity.

(d) The names and addresses of all property owners within 200 feet, contiguous to, and directly across the street from the property, as appearing on the Franklin County Auditor's current tax list.
   a. See attached.

(e) A narrative statement explaining the following:

1) The use for which variance or appeal is sought.
   i. We are seeking approval for a proposed new 5 foot wide sidewalk for the factory employee entrance within the 25 feet pavement and building setback. This proposed entrance was proposed by Axium to keep their factory and office employees separate. The factory entrance will be able to be accessed by employees 24/7 with key card and turnstile access, while the office entrance is only open during business hours with key card access. This enable a safe and secure office work space during and outside of business hour and factory 24/7.

2) Details of the variance or appeal that is applied for and the grounds on which it is claimed that the variance or appeal should be granted, as the case may be.
   i. From this employee entrance, we would like to connect to the public way. There is not a sidewalk that runs parallel to Innovation Campus Way, so a sidewalk directly to Innovation Campus Way is not possible. There is only a public way east of the site parallel with Smith’s Mill Road.
3) The specific reasons why the variance or appeal is justified according to this chapter.
   i. We have proposed to run the sidewalk from the employee entrance east to meet up with the 8 foot wide leisure trail, our closest public way.

4) Such other information regarding the application for appeal as may be pertinent or required for appropriate action by the Board of Zoning Appeals.
   i. The site south of the proposed sidewalk is undeveloped.

(f) A plot plan drawn to an appropriate scale showing the following:
   1) The boundaries and dimensions of the lot.
      i. Please see the attached site plan and enlarged site plan.
   2) The nature of the special conditions or circumstances giving rise to the application for approval.
      i. This new connection would allow for more connectivity to the 8 foot leisure trail.
   3) The size and location of existing and proposed structures.
      i. No proposed structure, just a new sidewalk.
   4) The proposed use of all parts of the lots and structures, including accesses, walks, off-street parking and loading spaces, and landscaping.
      i. The new sidewalk would serve as an employee entrance. This sidewalk provides connectivity to the parking lot and the 8 foot leisure trail.
   5) The relationship of the requested variance to the development standards.
      i. 1165.06 – Connectivity.
   6) The use of land and location of structures on adjacent property.
      i. The lot directly south is undeveloped.
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Thank you for your time and consideration.

Respectfully,

Dave Kaldy, Principal
Architectural Alliance Ltd.
Proposed new sidewalk in 25' pavement and building setback.

5'-0"