



New Albany Board of Zoning Appeals  
December 28, 2020 Minutes

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, Ms. Wiltrout, at 7:05 p.m.

Those answering roll call:

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

(Ms. Wiltrout, Mr. Gallagher, Mr. LaJeunesse, and Ms. Brisk present via GoToMeeting.com).

Staff members present: Steven Mayer, Development Services Coordinator (via GoToMeeting.com); Chris Christian, Planner; and Josie Taylor, Clerk (via GoToMeeting.com).

Moved by Mr. Gallagher to approve the November 23, 2020 meeting minutes, seconded by Ms. Wiltrout. Upon roll call: Mr. Gallagher, yea; Ms. Wiltrout, yea; Mr. LaJeunesse, yea. Yea, 3; Nay, 0; Abstain, 0. Motion passed by a 3-0 vote.

Ms. Wiltrout asked for any additions or corrections to the Agenda.

Mr. Christian stated none from staff.

Ms. Wiltrout swore Mr. Scott Howser, Ms. Katie Howser, and Mr. Todd Parker to tell the truth and nothing but the truth.

Ms. Wiltrout asked if anyone wanted to discuss any items not on tonight's Agenda. (No Response).

**VAR-93-2020 Variance**

**Variance to C.O. 1165.02(d) to allow a covered porch to encroach into the required front yard setback at 4646 Wilkin Court (PID: 222-000962).**

**Applicant: Todd Parker, f5 Design and Architecture Inc**

Mr. Christian presented the staff report.

Ms. Wiltrout asked if the applicant wanted to provide comments.

Mr. Todd Parker, the architect for the applicant, discussed the project and its design. Mr. Parker noted they had the approval of the NACC and its architectural review committee.

Mr. Gallagher stated he thought the design looked good and noted people were building larger porches at this time. Mr. Gallagher said he agreed with Mr. Parker that the placement of the home on the cul-de-sac meant a misalignment would not be created by this porch design.

Ms. Brisk asked for a clarification regarding where the Code permitted a porch, if uncovered or covered, to extend to.

Mr. Christian stated that the Code permitted an uncovered porch to encroach up to fourteen (14) feet into the required front yard setback, but a covered porch was limited to a three (3) foot encroachment. Mr. Christian stated that if the porch were uncovered a variance would not be needed.

Mr. LaJeunesse asked Mr. Parker if the original design had been within the Code.

Mr. Parker stated it would have been closer to the Code but it had been rejected by the architectural review committee and the original porch had not fully met the needs of the applicant.

Mr. LaJeunesse stated it looked great and he fully supported it.

Ms. Wiltrout asked for more information regarding the original design and the effort to stay within Code.

Mr. Parker stated the architectural review committee had rejected all prior designs and had asked them to make the porch deeper.

Mr. Scott Howser, the applicant and homeowner, stated Mr. Tom Rubey had encouraged this design.

Ms. Wiltrout asked what the applicant's requirements were and how they lent themselves to requiring this design.

Mr. Howser stated they lived on a cul-de-sac off of a cul-de-sac and children often played in the cul-de-sac. Mr. Howser stated that as the children played their families gathered together on the porch and they need the cover for this and the front door to obtain protection from the elements

Ms. Wiltrout asked if there had been an attempt to have the cover come within Code but the architectural review committee had said no.

Mr. Howser stated that was right.

Moved by Ms. Wiltrout to accept the staff report for VAR-93-2020 into the record, seconded by Mr. LaJeunesse. Upon roll call vote: Ms. Wiltrout, yea; Mr. LaJeunesse, yea; Mr. Gallagher, yea. Yea, 3; Nay, 0; Abstain, 0. Motion carried by a 3-0 vote.

Moved by Mr. Gallagher to approve application VAR-93-2020, seconded by Mr. LaJeunesse. Upon roll call vote: Mr. Gallagher, yea; Mr. LaJeunesse, yea; Ms. Wiltrout, yea. Yea, 3; Nay, 0; Abstain, 0. Motion carried by a 3-0 vote.

Ms. Wiltrout asked if there was any Other Business.

Mr. Christian stated none from staff.

Ms. Wiltrout asked for any further comments. (No response.)

Meeting adjourned at 7:44 p.m.

Submitted by Josie Taylor.

## APPENDIX



### Board of Zoning Appeals Staff Report December 28, 2020 Meeting

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#### 4646 WILKIN COURT FRONT PORCH ENCROACHMENT VARIANCE

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**LOCATION:** 4646 Wilkin Court (PID: 222-000962-00)  
**APPLICANT:** Todd Parker, f5 Design & Architecture, Inc.  
**REQUEST:** Variance to 1165.02(2) to allow a covered porch to encroach into the required front yard setback by approximately 3 +/- feet  
**STRATEGIC PLAN:** Neighborhood Residential District  
**ZONING:** R-3 and R-4  
**APPLICATION:** VAR-93-2020

Review based on: Application materials received December 1, 2020.

*Staff report prepared by Chris Christian, Planner*

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#### I. REQUEST AND BACKGROUND

The applicant requests a variance to C.O. 1165.02(2) to allow a front porch to encroach into the required front yard setback.

#### 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. The property is surrounded by residential homes.

#### 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.*

### **III. EVALUATION**

#### **Variance to 1165.02(2) to allow a covered porch to encroach into the required front yard setback by approximately 3 +/- feet.**

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

1. Codified Ordinance Section 1165.02(b)(2) states that architectural features may encroach up to 3 feet into a required setback. C.O. 1165.01(b) defines architectural features as cornices, canopies, eaves, pilasters, stairs, sills or other similar features. Historically, staff has considered a covered front porch an architectural feature and the requirements of C.O. 1165.02(b)(2) have been applied. According to C.O. 1165.04(b)(3), an uncovered porch and steps may encroach up to 14 feet into a required front yard.
2. The front yard setback for this property is 30 feet and the home is located approximately 2+/- feet away the required setback line. There is an existing, uncovered porch on the front elevation of the home that meets the code requirements described above. The applicant proposes to replace the existing porch with an 8 foot deep and 10 foot wide covered porch and steps that will encroach approximately 6+/- feet into the front yard setback. A maximum 3 foot architectural feature encroachment is permitted by code therefore a variance is required to allow an additional encroachment of 3+/- feet.
3. The variance request meets the spirit and intent of the zoning requirement which is to ensure that a consistent setback is achieved so that no building is constructed inappropriately, too far in front of or building other nearby structures. Additionally, city code allows for architectural features to encroach into these required setbacks in order to allow some design flexibility while maintaining a consistent setback for the primary structure. The city architect has reviewed the proposed front porch and is supportive of the design stating that the depth of the porch is historically accurate based on the architectural style, creating a human-scaled welcoming addition to the home.
4. The variance request does not appear to be substantial. The New Albany Design Guidelines and Requirements state that residential setbacks should be appropriate to the setting, building type, architectural style and relationship to surrounding buildings. While the proposal exceeds what is permitted by code, the request is not substantial because it is still meeting the design standards provided in the New Albany Design Guidelines and Requirements and upholds the architectural

characteristics and successful design of the home. The city architect states that the porch addition is a substantial improvement to the existing home as it presents a broader-faced entry element that is more “of kind” with the massing of the main home. Additionally the architect states that the double column motif detail is not only architecturally correct, but it provides a balance and proportion to the overall building façade.

5. It does not appear that the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a substantial detriment if the variance is granted. The applicant proposes to construct a modest, appropriately designed front porch that compliments the architecture of the home and immediate neighborhood.
6. It appears that granting the variance will not adversely affect the health and safety of persons residing in the vicinity.
7. Granting the variance would not adversely affect the delivery of government services.

#### **IV. RECOMMENDATION**

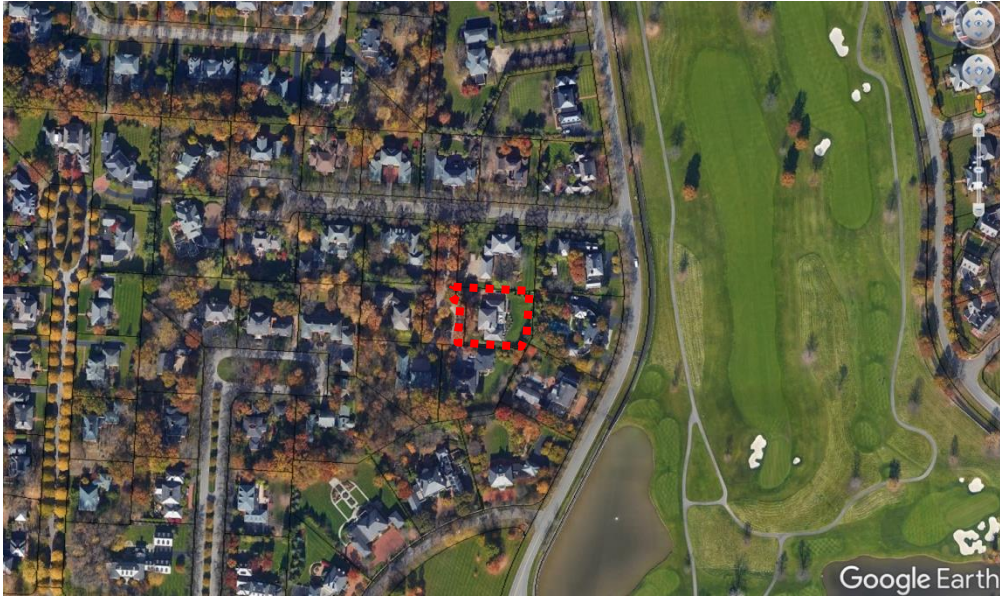
Staff recommends approval of the variance application should the Board of Zoning Appeals find that the application has sufficient basis for approval. While the applicant is proposing to construct a front porch that encroaches further into the required front yard setback than what is permitted by code, it is meeting the spirit and intent of the city code requirements and the design standards established in the New Albany Design Guidelines and Requirements. The New Albany Design Guidelines and Requirements state that residential setbacks should be appropriate to the setting, building type, architectural style and relationship to surrounding buildings, which is also similar to the intent of the city code requirement. While the proposed front porch encroachment into the front yard is larger than what is permitted by code, the city architect has reviewed the design and is supportive stating that the depth is historically accurate for this architecture type. Additionally, the architect states that the addition is a substantial improvement to the existing home and provides an appropriate balance and proportion to the overall façade. There are instances, such as this case, where good design practice may not meet the strict application of city code and variances are warranted when such cases still achieve the design standards set forth in the DGRs.

#### **V. ACTION**

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

**Move to approve application VAR-93-2020 (conditions of approval may be added).**

Approximate Site Location:



Source: Google Earth