



New Albany Board of Zoning Appeals  
January 25, 2021 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 7:01 p.m.

Those answering roll call:

Ms. Andrea Wiltrout	Present
Mr. Everett Gallagher	Present (arrived 7:06 p.m.)
Mr. Kirk Smith	Present
Ms. Kerri Mollard	Absent
Mr. Shaun LaJeunesse	Present
Ms. Marlene Brisk	Present

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

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

Moved by Mr. Smith to approve the December 28, 2020 meeting minutes, seconded by Ms. Wiltrout. Upon roll call: Mr. Smith, 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 Ms. Katie Bauman and Mr. Tom Guy 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-1-2021 Variance**

**Variance to C.O. 1165.04(a)(4) to allow a detached accessory structure to be constructed of metal at 7022 Doran Drive (PID: 222-000778)**

**Applicant: Tom Guy**

Mr. Christian presented the staff report.

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

Mr. Tom Guy, the applicant, stated the building was to be used for projects..

Mr. LaJeunesse asked if the building would be all metal or only a portion of it would be metal.

Mr. Guy stated it was pole barn construction that would have metal siding such as that seen on the Broadway Bound building. Mr. Guy stated it would have a concrete floor and porch on the side and the garage door would match the one on the garage at the house.

Mr. LaJeunesse asked if all the neighbors had been alerted to the variance request.

Mr. Christian stated all neighbors within 200 feet of the property had been notified.

Ms. Wiltrout asked staff what the typical siding used for these types of barns was in the community.

Mr. Christian stated the Code allowed brick, wood, or composite.

Ms. Wiltrout stated composite wood

Mr. Christian stated yes

Mr. Mayer stated that was for all types of accessory structures. Mr. Mayer said he thought the reason metal was not a permitted use by right was due to the architectural style requirements in the community. Mr. Mayer stated this type of material variance had been previously requested.

Ms. Wiltrout stated it had been noted that previous applicants had been successful in applying for these types of variances and asked for the locations.

Mr. Christian stated there were two (2) recent examples, including one at 7435 Bevelhymer Road that was a similar request.

Ms. Wiltrout stated she recalled that one.

Moved by Mr. Gallagher to accept the staff report for VAR-1-2021 into the record, seconded by Ms. Ms. Wiltrout. Upon roll call vote: Mr. Gallagher, yea; Ms. Wiltrout, yea; Mr. LaJeunesse, yea; Mr. Smith, yea. Yea, 4; Nay, 0; Abstain, 0. Motion carried by a 4-0 vote.

Moved by Mr. LaJeunesse to approve application VAR-1-2021, seconded by Mr. Smith. Upon roll call vote: Mr. LaJeunesse, yea; Mr. Smith, yea; Mr. Gallagher, yea; Ms. Wiltrout, yea. Yea, 4; Nay, 0; Abstain, 0. Motion carried by a 4-0 vote.

Ms. Wiltrout asked if Ms. Brisk had a question and stated that Ms. Brisk could not be heard speaking.

Ms. Brisk stated she had a question but she could not be heard and the vote went forward. Ms. Brisk stated it was not a problem.

#### **VAR-2-2021 Variance**

**Variance to AEP L-GE zoning text section II(A)(2) to allow a building to encroach into the required building setbacks along a rear and side property line at 8400 Smith's Mill Road (PID: 093-107046-00.002)**

**Applicant: EMH&T c/o Katie Bauman**

Mr. Christian presented the staff report.

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

Ms. Bauman stated she had nothing to add but said she believed someone from AEP was also at the meeting and asked if he had anything to add.

Mr. Matthew Forshey, with AEP, thanked the City for their assistance and consideration.

Mr. LaJeunesse asked how often a rezoning was needed on these types of commercial properties as it seemed they were lagging.

Mr. Mayer stated the rezoning process normally takes about ninety (90) days and this property was one of the first to develop in the business park here. Mr. Mayer stated the zoning for this property was established in 2006. Mr. Mayer stated the Code has evolved over time, but because of the date on this property's last rezoning, it required a variance.

Mr. Gallagher asked if the proposed Blacklick sewer trunk extension on the western side of the property would impact this building.

Mr. Mayer stated there were no impacts from it and that would be on a separate property from this one.

Mr. LaJeunesse asked about the use of the building.

Mr. Forshey stated it would be used for operations for the building next to it and would be mostly unoccupied.

Mr. LaJeunesse asked if it would have diesel generators.

Mr. Forshey stated it would be more like IT equipment, servers and that type of thing to support the operations center.

Moved by Mr. Gallagher to accept the staff report for VAR-2-2021 into the record, seconded by Ms. Wiltrout. Upon roll call vote: Mr. Gallagher, yea; Ms. Wiltrout, yea; Mr. Smith, yea; Mr. LaJeunesse, yea. Yea, 4; Nay, 0; Abstain, 0. Motion carried by a 4-0 vote.

Moved by Ms. Wiltrout to approve application VAR-2-2021, seconded by Mr. LaJeunesse. Upon roll call vote: Ms. Wiltrout, yea; Mr. LaJeunesse, yea; Mr. Smith, yea; Mr. Gallagher, yea. Yea, 4; Nay, 0; Abstain, 0. Motion carried by a 4-0 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 7:24 p.m.

Submitted by Josie Taylor.

# APPENDIX



## Board of Zoning Appeals Staff Report January 25, 2021 Meeting

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### 7022 DORAN DRIVE ACCESSORY STRUCTURE BUILDING MATERIAL VARIANCE

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**LOCATION:** 7022 Doran Drive (PID: 222-000778)  
**APPLICANT:** Tom Guy  
**REQUEST:** (A) Variance to C.O. 1165.04(a)(4) to allow a detached accessory structure to be constructed of metal.  
**STRATEGIC PLAN:** Town Residential  
**ZONING:** R-1  
**APPLICATION:** VAR-1-2021

Review based on: Application materials received December 21, 2020.

*Staff report prepared by Chris Christian, Planner*

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#### I. REQUEST AND BACKGROUND

The applicant requests the following variance:

(A) Variance to C.O. 1165.04(a)(4) to allow a detached accessory structure to be constructed of metal.

#### II. SITE DESCRIPTION & USE

This .93 acre property is located in the Cedarbrook subdivision and currently contains a single family home that was built in 1974. The property is surrounded by residentially zoned and used properties.

#### 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**

#### **(A) Variance to C.O. 1165.04(a)(4) to allow a detached accessory structure to be constructed of metal.**

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

1. C.O. 1165.04(a)(4) states that all finished surfaces of a detached accessory structure must be complementary to the primary structure and be wood, brick, composite siding or any combination thereof. The applicant proposes to construct a 768 square foot detached garage, designed to resemble a barn using a board and batten style metal siding as the primary building material, therefore a variance is required.
2. The variance does not appear to be substantial. The city architect has reviewed the proposal and is supportive of the barn design and the use of metal. The city architect has reviewed the request and states that metal is a common and appropriate building material for barns therefore the variance request appears to be appropriate given the typical design of a barn.
3. It appears that the essential character of the neighborhood will not be substantially altered if the variance is granted. The size and scale of the proposed structure is appropriate and meets all other code requirements for these types of structures. The garage is meeting setback requirements and there is significant landscaping on the site which will limit visibility from off-site view.
4. It does not appear that granting the proposed variance would 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.
5. Granting the variance would not adversely affect the delivery of government services.

### **III. RECOMMENDATION**

Staff recommends approval of the variance application should the Board of Zoning Appeals finds that

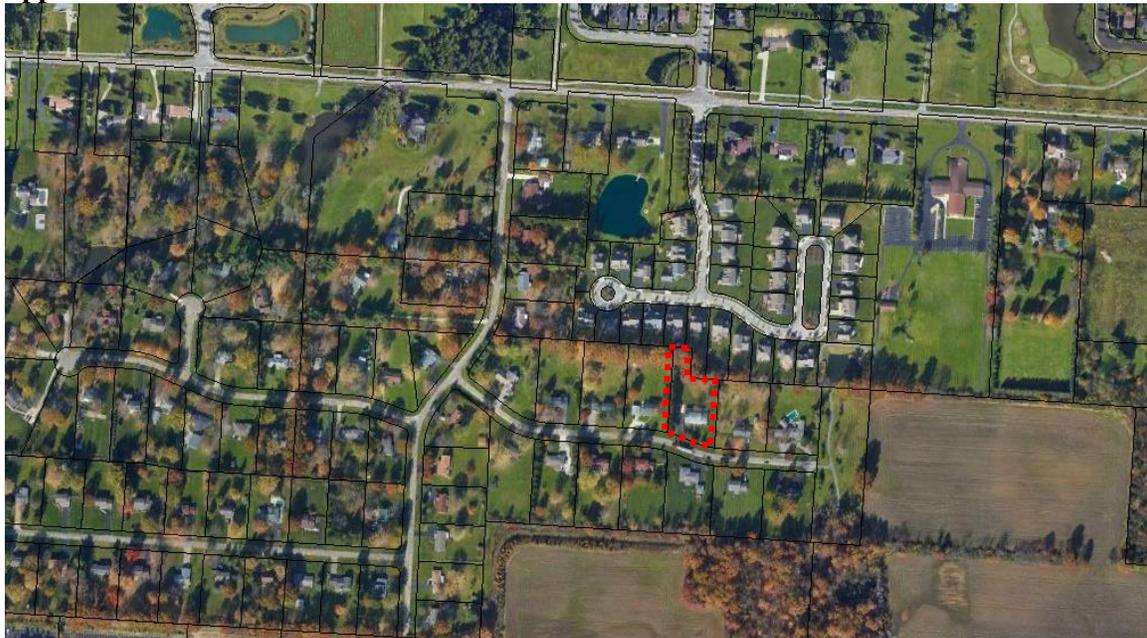
the application has sufficient basis for approval. The city architect has reviewed the proposal and is supportive of the use of metal in this case, as it is an appropriate building material for a barn therefore the request is not substantial. Additionally, it does not appear that the essential character of the immediate area will be altered if the variance is granted. The proposed structure is appropriately scaled, is meeting all other code requirements and there is a significant amount of landscaping on the site that will provide screening and limit visibility from off-site view.

**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-1-2021 (conditions of approval may be added).**

**Approximate Site Location:**



Source: Google Earth



**Board of Zoning Appeals Staff Report  
January 25, 2021 Meeting**

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**AEP  
BUILDING SETBACK VARIANCE**

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**LOCATION:** 8400 Smith's Mill Road (PID: 093-107046-00.002)  
**APPLICANT:** EMH&T c/o Katie Bauman  
**REQUEST:** (A) Variance to AEP L-GE zoning text section II(A)(2) to allow a building to be located 40 feet from the rear property line where the zoning text requires a 100 foot setback.  
(B) Variance to AEP L-GE zoning text section II(A)(2) to allow a building to be located 40 feet from the western property line where the zoning text requires a 100 foot setback.  
**STRATEGIC PLAN:** Office Campus  
**ZONING:** AEP Limited General Employment (L-GE) zoning district  
**APPLICATION:** VAR-2-2021

Review based on: Application materials received December 18, 2020.

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*Staff report prepared by Chris Christian, Planner*

**IV. REQUEST AND BACKGROUND**

The applicant requests the following variances as part of the construction of a new commercial building on the AEP campus.

- (B) Variance to AEP L-GE zoning text section II(A)(2) to allow a building to be located 40 feet from the rear property line where the zoning text requires a 100 foot setback.
- (C) Variance to AEP L-GE zoning text section II(A)(2) to allow a building to be located 40 feet from the western property line where the zoning text requires a 100 foot setback.

**V. SITE DESCRIPTION & USE**

This 25 acre property is part of the AEP campus, located in Licking County. The property was rezoned to Limited General Employment (L-GE) in 2006 (O-16-2006) and is surrounded by commercially zoned properties.

**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.

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**

**(A)Variance to AEP L-GE zoning text section II(A)(2) to allow a building to be located 40 feet from the rear property line where the zoning text requires a 100 foot setback.**

**(B)Variance to AEP L-GE zoning text section II(A)(2) to allow a building to be located 40 feet from the western property line where the zoning text requires a 100 foot setback.**

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

1. The applicant requests variances to allow a building to be located 40 feet from the rear and side property lines at the northwest corner of the site where the zoning text requires a 100 foot building setback.
2. The variance request does not appear to be substantial and meets the spirit and intent of the zoning requirement which is to ensure that there is an adequate separation between residential and commercial properties. When this zoning district was adopted, the adjacent properties along these property lines were zoned to permit residential uses. Since the properties were used as residential at that time, larger setbacks were included in the zoning text to provide additional separation between commercial and residential uses. However, this portion of the business park is now entirely zoned for commercial and there are no residential properties immediately adjacent or in the vicinity so the 100 foot building setback is no longer necessary for either property line.
3. It appears there are special circumstances within these zoning districts that are not applicable to other lands. The Limited General Employment (L-GE) zoning district establishes additional, more restrictive requirements than the standard General Employment (GE) zoning district requirements found in the city’s Codified Ordinance Chapter 1153. The “base” General Employment zoning district only requires a 25 foot building setback from these property lines

for the permitted uses within this zoning district. If this property was zoned under the traditional General Employment (GE) classification rather than with the limited overlay, this variance would not be needed. Additionally, newer L-GE zoning district texts contain provisions to allow smaller setbacks when an adjacent property is no longer zoned or used as residential. Additionally, the zoning text for the property to the north and the west only require a 25 foot building setback along the same property lines.

4. Historically the PC and BZA have approved variances to reduce or eliminate more restrictive setback requirements established when residentially used property existed adjacent to the businesses park in the Personal Care and Beauty Campus and were rezoned to commercial.
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. This variance request does not eliminate the architectural, screening and landscaping requirements of the zoning text.
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.

#### **VI. RECOMMENDATION**

Staff recommends approval of the variance application should the Board of Zoning Appeals finds that the application has sufficient basis for approval. This site is located within the Licking County Business Park and is completely surrounded by commercially zoned property. This increased setback requirement was established for residential uses. The adjacent properties were zoned and used as residential at the time this property was rezoned but have since been sold and rezoned to the same L-GE zoning classification therefore the 100 foot building setback does not appear to be necessary. The applicant is still providing a larger setback than what is required by neighboring commercial properties. The variance request does not eliminate the architectural, screening and landscape requirements of the zoning text. Therefore it does not appear that the essential character of the surrounding area will be altered if the variance is granted.

The zoning requirements for the Licking County portion of the New Albany business park have evolved since its beginnings in 2006 when this specific zoning district was adopted. Recent limitation texts contain provisions to allow for smaller setbacks if an adjacent property becomes commercially zoned and owned so that this variance is not needed. This zoning text was one of first commercial texts established in the Licking County portion of the New Albany International Business Park and doesn't have that provision so a variance is needed.

#### **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-2-2021 (conditions of approval may be added).**

**Approximate Site Location:**



Source: Google Earth