



New Albany Board of Zoning Appeals
February 22, 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. Wilttrout, at 7:03 p.m.

Those answering roll call:

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

(Ms. Wilttrout, 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. Gallagher to approve the January 25, 2021 meeting minutes, seconded by Mr. Smith. Upon roll call: Mr. Gallagher, yea; Mr. Smith, yea; Mr. LaJeunesse, yea; Ms. Mollard, yea; Ms. Wilttrout, yea. Yea, 5; Nay, 0; Abstain, 0. Motion passed by a 5-0 vote.

Ms. Wilttrout swore all those speaking today to tell the truth and nothing but the truth.

Mr. Eckleberry stated yes.

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

VAR-11-2021 Variance

Variance to C.O. 1171.08(c) to allow a stormwater basin to have side slopes that are steeper than 6:1 at a property generally located at the northwest corner of Central College Road and New Albany Road East (PID: 222-003104).

Applicant: Advanced Civil Design, Inc.

Mr. Christian presented the staff report.

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

Mr. Eckleberry, with Advanced Civil Design, Inc., discussed the application.

Ms. Wilttrout asked what would change due to the change in the slope.

Mr. Mayer stated that what would change if the slope changed from 4:1 to 6:1 was that more trees would be removed from the site. Mr. Mayer stated that as far as the slope went, it might or might not be noticeable given the existing screening and landscaping.

Ms. Wilttrout asked if the downside of approving the application was that there would be fewer trees along the frontage.

Mr. Mayer stated that if the application were not approved the applicant would then need to widen the basin in order to meet the slope requirements and thereby having to remove the trees shown in blue on the screen presentation, approximately thirty (30) trees.

Mr. Eckleberry stated that using a 6:1 slope it would require the applicant to push the building and parking lot further north to make the basin deep enough.

Ms. Wiltrout asked if the proposed stormwater basin was 4:1 not 6:1.

Mr. Eckleberry stated yes.

Ms. Wiltrout asked what aesthetic effect would the applicant's being able to use 4:1 have on the property. Ms. Wiltrout asked if it was correct that there would not be any.

Mr. Eckleberry stated that was not the case. Mr. Eckleberry stated there would be proposed landscaping along the north. Mr. Eckleberry said there were established, mature trees on the west, south, and east of the basin along the roadside as well as the decorative fencing out front.

Mr. Gallagher asked if there would be a need or condition to replace the trees that would go down.

Ms. Wiltrout stated she did not think the trees would come down if the variance were granted.

Mr. Gallagher stated no, he believed that with 4:1 all the trees shown in red on the screen presentation would come down.

Ms. Mollard stated that was correct, you would still be losing trees.

Ms. Wiltrout stated if there would still be lost trees then she felt it would be hard to require tree replacement when more trees would be lost by not granting the variance.

Mr. Gallagher stated it would be in exchange for 4:1.

Ms. Wiltrout asked if this had been done before.

Mr. Mayer asked 4:1 slopes.

Ms. Wiltrout stated requiring additional trees to be provided here.

Mr. Mayer stated it was within the BZA's ability to add such a condition of approval. Mr. Mayer stated they had not done a full valuation, but said a condition to require the applicant to work with the City Architect to replace trees could be added.

Ms. Wiltrout asked when the applicant had purchased the lot.

Mr. Eckleberry stated he was not sure.

Ms. Wiltrout asked if it was recently and if it was before or after the defect.

Mr. Eckleberry stated he believed it might have been purchased two (2) years or so.

Mr. Eckleberry asked staff if making West Campus Oval a public street was still being considered.

Mr. Mayer stated it further investigation was needed.

Ms. Mollard asked if there was a storm water problem if the variance was not granted, would there be no remedy.

Mr. Eckleberry stated no. Mr. Eckleberry stated that if they could not do 4:1 side slopes they would then use an alternate system on the site and would not modify the basin.

Ms. Mollard asked if standing water present there would contribute to flooding on West Campus Oval.

Mr. Mayer stated it was a private street, but he assumed it would back up. Mr. Mayer stated he was not aware of complaints about flooding at this time but noted this had been identified as having potential offsite impact.

Mr. Eckleberry stated water that did not go into the sewer or the basin may flood out over land and may end up in the basin or the road, he was not sure.

Ms. Mollard stated she believed if the steeper basin prevented potential catastrophic flooding along the road, then the tradeoff of losing trees would provide a benefit.

Mr. Gallagher stated there had not been any issues or the City would have known that.

Ms. Wiltrout stated she did not know if the City had experienced the type of rain necessary to cause flooding.

Ms. Gallagher stated those types of rain had occurred in the past 22 years.

Mr. Mayer stated he did not know if it was an identified problem today, but certainly this would improve the current situation there today.

Mr. Gallagher asked why this had not been properly done in the first place.

Mr. Mayer stated he was not aware of why that had not occurred.

Moved by Mr. Gallagher to accept the staff report for VAR-11-2021 into the record, seconded by Mr. Smith. Upon roll call vote: Mr. Gallagher, yea; Mr. Smith, yea; Ms. Mollard, yea; Ms. Wiltrout, yea; Mr. LaJeunesse, yea. Yea, 5; Nay, 0; Abstain, 0. Motion carried by a 5-0 vote.

Moved by Mr. Smith to approve application VAR-11-2021, seconded by Mr. LaJeunesse. Upon roll call vote: Mr. Smith, yea; Mr. LaJeunesse, yea; Ms. Mollard, yea; Mr. Gallagher, yea; Ms. Wiltrout, yea. Yea, 5; Nay, 0; Abstain, 0. Motion carried by a 5-0 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 7:26 p.m.

Submitted by Josie Taylor.

APPENDIX



Board of Zoning Appeals Staff Report February 22, 2021 Meeting

CENTRAL COLLEGE MEDICAL OFFICE BUILDING STORMWATER BASIN SLOPE VARIANCE

LOCATION: Generally located at the northwest corner of Central College Road and New Albany Road East (PID: 222-003104).
APPLICANT: Advanced Civil Design, Inc.
REQUEST: (A) Variance to C.O. 1171.08(c) to allow a stormwater basin to have side slopes that are steeper than 6:1.
STRATEGIC PLAN: Office Campus
ZONING: Office Campus District (OCD)
APPLICATION: VAR-11-2021

Review based on: Application materials received January 22, 2021.

Staff report prepared by Chris Christian, Planner

I. REQUEST AND BACKGROUND

The applicant requests the following variance:

- (A) Variance to C.O. 1171.08(c) to allow a stormwater basin to have side slopes that are steeper than 6:1.

II. SITE DESCRIPTION & USE

This 5.915 acre property currently undeveloped and is located at the northwest corner of Central College Road and New Albany Road East. There is an existing stormwater basin located on the property that was designed in 1999 to serve development along West Campus Oval.

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. 1171.08(c) to allow a stormwater basin to have side slopes that are steeper than 6:1.

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

1. C.O. 1171.08 contains the following regulations shall apply to the design of wet and dry stormwater basins:

Regulation	Comment
(a) Wet and dry stormwater basins shall be designed by a landscape architect in conjunction with a professional engineer to ensure that the basins have a natural shape and are graded and planted in an attractive manner.	Requirement is being met.
(b) Wet and dry stormwater basins shall be designed in compliance with the ODNR Rainwater and Land Development Manual, latest edition, to meet water quality requirements.	Requirement will be reviewed as part of the engineering permit submittal.
<u>(c) For safety, maintenance, and aesthetic purposes, wet and dry stormwater basins shall have side slopes (above normal pool</u>	<u>Requirement not met. Applicant requests a variance to allow for 4:1 slopes (horizontal:vertical).</u>

<p><u>elevation) that are generally no steeper than 6:1 and no more gradual than 20:1 (horizontal:vertical).</u></p>	
<p>(d) The use of fountains and other plainly visible aeration devices shall be subject to the approval of the Village Landscape Architect.</p>	<p>None proposed.</p>
<p>e) Landscape treatments at the perimeter of wet and dry stormwater basins shall be designed either with maintained turf to the pond's edge or a naturalized planting of native landscape material, subject to approval of the Village Landscape Architect. The landscape plantings shall be in large masses and drifts, and shall not include decorative landscape boulders, large mulch beds, or specimen plantings. Under no circumstances shall the landscape design conflict with any of the safety, maintenance, or engineering requirements set forth in the codified ordinances or reference documents.</p>	<p>Requirement will be reviewed as part of the engineering permit submittal.</p>

2. There is an existing stormwater basin on the site and according to a topographical survey provided by the applicant, the current side slopes of the basin vary from 2:1 to 5:1. During the design process, the development team discovered additional storage was needed and the basin needed to be modified to accommodate their project. The applicant proposes to regrade the stormwater basin to allow for more storage and maintain 4:1 side slopes therefore a variance is required.
3. The variance does not appear to be substantial and meets the spirit and intent of the zoning requirement. Steeper slopes typically not occur naturally and one of the intents of the requirement is to ensure that stormwater basins have a naturalized appearance from off-site view. The 6:1 slope is meant to mimic what is typically found in nature. The city landscape architect has reviewed the proposal and is supportive stating that the aesthetics of the steeper slope will not compromise the character of the roadways as they will not be noticeable.
4. There are existing special circumstances to this property that justify the variance request. The applicant is working around an existing site condition that was designed 22 years ago and is improving several existing conditions both on the site and in the immediate area as part of the basin reconfiguration. The applicant states that as designed, stormwater for West Campus Oval does not properly drain into the basin on the property as the outlet is currently 4 feet below the bottom of the basin. Allowing the basin to be made deeper it will allow stormwater to flow freely into the basin. This will ensure the street has proper drainage and mitigate possible roadway flooding. Additionally, the existing basin has side slopes that are steeper than the proposed 4:1 slopes and allowing them to be regraded will improve the aesthetics.
5. It appears that the essential character of the neighborhood will not be substantially altered if the variance is granted. There are existing mature trees located on the site that provide screening for the basin from the public roads. The applicant states that 16 of the trees will need to be removed in order to accommodate the basin reconfiguration however if they are required to meet the 6:1 side slope requirement, a total of 38 trees would have to be removed. Staff is supportive of preserving as many existing trees on the site in order to provide screening from the road but to also maintain the existing character of these roadways.

6. The city landscape architect comments there are no maintenance concerns with the 4:1 slopes. It is still gradual enough that landscaping and turf grass can be established and be maintained by industry standard equipment.
7. 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. The city engineer has reviewed the proposal and has not identified any safety concerns.
8. The applicant states that the deeper stormwater basin will not have a negative impact on the downstream storm sewer system.
9. 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 find that the application has sufficient basis for approval. The proposal meets several recommendations contained in the 2014 New Albany Strategic Plan. The strategic plan recommends “development sites should strive to retain and incorporate existing natural features into overall designs” for office buildings. The proposal also meets one of the 2014 New Albany Strategic Plan’s sustainability goals of having site designs that capitalize on the existing landscape and character of the area.

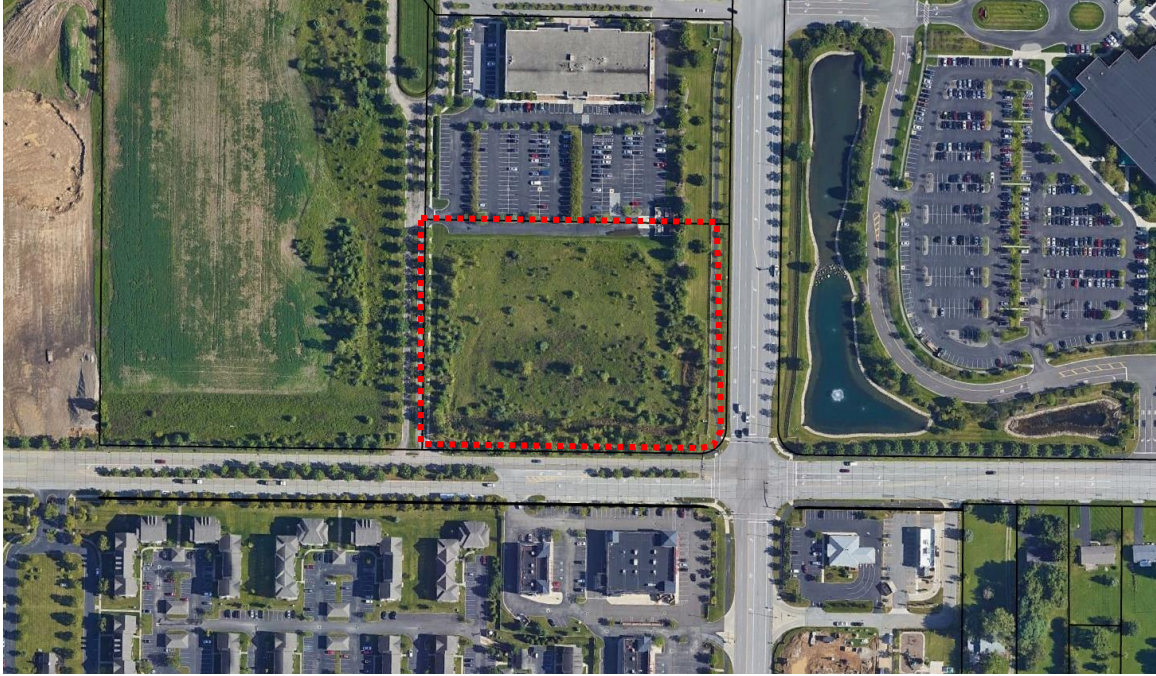
The variance does not appear to be substantial and meets the intent of the requirement which is to ensure stormwater basins have a naturalized appearance from the public realm. The city landscape architect has reviewed the proposal and is supportive of the design stating that the aesthetics of the steeper slope will not compromise the character of the roadway as the basin’s visibility is limited. While the slopes may be steeper than allows, all other code requirements are being met. The city engineer and city landscape architect have reviewed the proposal and commented there are no safety, maintenance, and aesthetic concerns. Additionally, the steeper slopes improve existing off-site conditions by providing enhanced drainage for West Campus Oval.

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-11-2021 (conditions of approval may be added).

Approximate Site Location:



Source: Google Earth