



New Albany Board of Zoning Appeals
April 26, 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 7:02 p.m.

Those answering roll call:

Ms. Andrea Wilttrout	Present
Mr. Everett Gallagher	Present
Mr. Kirk Smith	Present (7:03 p.m.)
Ms. Kerri Mollard	Absent
Mr. Shaun LaJeunesse	Present
Ms. Marlene Brisk	Present

(Ms. Wilttrout, Mr. Gallagher, Mr. Smith, Mr. LaJeunesse, and Ms. Brisk present via Zoom.com).

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

Moved by Mr. Gallagher to approve the March 22, 2021 meeting minutes, seconded by Ms. Wilttrout. Upon roll call: Mr. Gallagher, yea; Ms. Wilttrout, yea; Mr. LaJeunesse, yea; Mr. Smith, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Ms. Wilttrout asked if there were any additions or corrections to the Agenda.

Mr. Christian stated none from staff.

Ms. Wilttrout swore in those who would be speaking before the Board of Zoning Appeals (hereafter, "BZA") this evening to tell the truth and nothing but the truth.

Mr. Todd Parker, Mr. Jim Flinn, and Mr. Aaron Underhill said they swore to tell the truth and nothing but the truth.

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

Mr. Christian explained how someone could comment or ask questions during the meeting.

VAR-32-2021 Variance

Variance to C.O. 1165.04(a)(1) to allow a detached garage to be 1,140square feet in size where city code permits a maximum of 800 square feet at 7708 Brandon Road(PID: 222-001733).

Applicant: f5 Design/Architecture, c/o Todd Parker

Mr. Christian presented the staff report.

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

Mr. Todd Parker, the architect for the project stated that the structure would be well screened and was the best solution possible as a separate structure could not be constructed. Mr. Parker said an 800 square foot structure would not meet the needs of the applicant. Mr. Parker stated the project had been approved by the New Albany Country Club Architectural Review Committee.

Mr. LaJeunesse asked if there was another garage on the property.

Mr. Parker stated there was a three (3) car attached garage.

Ms. Wiltrout asked why this structure was needed, what problem did this structure solve.

Mr. Parker stated the applicant was a car collector and the collection did not fit in the existing garage. Mr. Parker added that a car lift was not possible here without additional construction.

Ms. Wiltrout asked when the property had been purchased.

Mr. Gallagher stated it was May 2020.

Ms. Wiltrout asked how many cars the applicant had at the time of purchase.

Mr. Jim Flinn, the property owner, stated he had the cars prior to the purchase of this property.

Ms. Wiltrout stated thank you.

Mr. LaJeunesse asked if the neighbors were aware of the plans and were okay with this.

Mr. Flinn stated he thought they had been notified and that he had spoken with the neighbor on one side who indicated he was fine with the application but he had not been able to speak with the other neighbor. Mr. Flinn said there was extensive landscaping on the property that screened the garage and indicated he would not pursue this application if his neighbors were not okay with it.

Mr. Parker stated he did not believe any neighbors had submitted anything to staff about this application.

Mr. Christian stated that was correct.

Mr. Smith asked if the neighbors had been properly notified.

Mr. Christian stated that was correct.

Mr. Smith asked what the existing garage was used for at this time.

Mr. Flinn stated two of the garage bays were for daily cars and then three (3) would be for collector cars.

Mr. Smith asked how the idea of a breezeway, or a pull through, between two (2) separate 800 square foot structures seemed to Mr. Flinn.

Mr. Flinn stated he was not opposed to it, but it might look worse and one (1) structure looked better aesthetically.

Mr. Parker stated that if it were two (2) structures then they might need to remove mature trees on the lot.

Mr. LaJeunesse asked if there was a landscaping plan with this application.

Mr. Parker asked Mr. Christian to pull up an aerial photograph on the presentation and stated there was screening along the driveway and there were mature trees near the northeast corner of the lot. Mr. Parker stated it was well screened already but they could add more if needed.

Mr. Flinn stated the whole fence line was lined by trees.

Mr. Gallagher stated he was concerned about setting a precedent. Mr. Gallagher said the house had five (5) spaces available and there was not a compelling need for seven (7). Mr. Gallagher stated he would be a no vote on this.

Mr. LaJeunesse asked when the Code had last been updated.

Ms. Wiltrout stated it had been very recently done. Ms. Wiltrout stated she thought it was done prior to this lot's purchase. Ms. Wiltrout stated she believed this was a substantial variance.

Mr. Parker stated they were only asking for an additional 340 square feet.

Ms. Wiltrout asked Mr. Mayer what the applicant could do if they attached the garage to the house, how much space would the applicant be allowed in that case.

Mr. Mayer stated there were no limits on garage size if attached to the principle structure.

Ms. Wiltrout stated that might be a way to obtain more space.

Mr. LaJeunesse asked to return to the drawing on the presentation and asked if the height of the existing garage did not permit a lift to be used.

Mr. Parker stated it would not be possible unless they removed the roof and started over.

Mr. LaJeunesse asked what was in the space or nook to the left of the driveway.

Mr. Parker stated HVAC equipment, a generator, and a built in grill.

Mr. LaJeunesse asked if they had considered using that space to build a garage.

Mr. Parker stated it would be fairly costly and, due to the way the house worked, they would not have full depth there. Mr. Parker asked if Mr. LaJeunesse was thinking of a fourth bay being added to the house.

Mr. LaJeunesse stated yes, he was thinking of alternatives.

Mr. Parker stated they had considered stopping at 800 square feet, but it did not meet the homeowner's needs.

Moved by Mr. Gallagher to accept the staff report for VAR-32-2021 into the record, seconded by 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. Smith to approve application VAR-32-2021, seconded by Mr. LaJeunesse. Upon roll call vote: Mr. Smith, yea; Mr. LaJeunesse, yea; Ms. Wiltrout, no; Mr. Gallagher, no. Yea, 2; Nay, 2; Abstain, 0. Motion failed by a 2-2 vote.

Ms. Wiltrout stated she thought the variance was substantial and thought it would set a precedent. Ms. Wiltrout stated the property owner had purchased the property with the zoning restriction and she saw the problem could be solved by some other means.

Mr. Gallagher stated he agreed with Ms. Wiltrout's reasoning.

VAR-34-2021 Variances

Variances to the Beech Interchange Subarea A and Winding Hollow Limited General Employment (L-GE) zoning districts to allow buildings to exceed the 65-foot building height limitation required in each zoning text for properties generally located west of Beech Road and south of State Route 161 (PIDs: 094-108192-00.000, 094-106494-00.002, 094-106404-00.000, 094-107388-00.000, 094-108582-00.000, 094-108390-00.000, 094-106836-00.004, 094-106644-00.001, 094-106644-00.000, 094-108270-00.000).

Applicant: MJB Holdings LLC c/o Aaron Underhill, Esq.

Mr. Christian presented the staff report.

Mr. Gallagher stated he recalled the approval meeting for a prior request on a lot next to this one and remembered it had been mentioned other requests similar to it might be made. Mr. Gallagher stated the same logic still held.

Mr. Smith asked if the nearest residents had been notified.

Mr. Christian stated the Code required those within 200 feet to be notified and on this application the nearest residents were well outside 200 feet.

Mr. Smith stated he was in favor of this.

Mr. LaJeunesse stated he was also in favor of it.

Moved by Mr. Gallagher to accept the staff report for VAR-34-2021 into the record, seconded by Mr. Smith. Upon roll call vote: Mr. Gallagher, yea; Mr. Smith, yea; Ms. Wiltrout, yea; Mr. LaJeunesse, yea. Yea, 4; Nay, 0; Abstain, 0. Motion carried by a 4-0 vote.

Moved by Mr. Smith to approve application VAR-34-2021, seconded by Ms. Wiltrout. Upon roll call vote: Mr. Smith, yea; Ms. Wiltrout, yea; Mr. Gallagher, yea; Mr. LaJeunesse, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

VAR-35-2021 Variance

Variances to C.O. 1169 to allow for additional sign area, quantity, lettering height and material than permitted by the city sign code for a proposed Amazon Fulfillment Center located at 1245 Beech Road(PID: 094-106404-00.004).Applicant: EMH&T c/o Amy Nagy

Mr. Christian presented the staff report.

Moved by Ms. Wiltrout to accept the staff report for VAR-35-2021 into the record, 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.

Moved by Mr. LaJeunesse to approve application VAR-35-2021, 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 passed by a 4-0 vote.

Ms. Wiltrout asked if there was any other business.

Mr. Christian stated none from staff.

Ms. Wiltrout adjourned the meeting.

Meeting adjourned at 7:48 p.m.

Submitted by Josie Taylor.

APPENDIX



Board of Zoning Appeals Staff Report April 26, 2021 Meeting

7708 BRANDON ROAD ACCESSORY STRUCTURE AREA VARIANCE

LOCATION: 7708 Brandon Road (PID 222-001733)
APPLICANT: f5 Design/Architecture, c/o Todd Parker
REQUEST: Variance to C.O. 1165.04(a)(1) to allow a detached garage to be 1,140 square feet in size where city code allows a maximum of 800 square feet.
ZONING: R-3
STRATEGIC PLAN: Residential
APPLICATION: VAR-32-2021

Review based on: Application materials received on March 17, 2021.

Staff report prepared by Chris Christian, Planner.

I. REQUEST AND BACKGROUND

The applicant requests a variance to C.O. 1165.04(a)(1) to allow an existing 540 sq. ft. detached garage to be enlarged and have a total area of 1,140 square feet in size where city code allows a maximum of 800 square feet.

C.O. 1165.04(a)(1) states that the maximum permitted area for a detached structure on a lot less than 1 acre is 800 square feet therefore a variance is required. Lots between 1 and 2 acres are permitted to construct accessory structures up to 1,200 square feet in area.

II. SITE DESCRIPTION & USE

The .68 acre property is located in section 14 of the New Albany Country Club, is zoned R-3 and contains a single family home. The surrounding properties to the east, west and north are residentially zoned and the New Albany Country Club Golf Course is located to the south.

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 C.O. 1165.04(a)(1) to allow a detached garage to be 1,140 square feet in size where city code allows a maximum of 800 square feet.

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

Site Specific Considerations:

1. The applicant proposes to enlarge an existing 540 sq. ft. detached garage to have a total area of 1,140 square feet. Codified Ordinance 1165.04(a)(1) states that the maximum permitted area for a detached structure on a lot less than 1 acre is 800 square feet therefore a variance is required. The additional space is proposed to be added to the rear of the existing garage and is meeting all other code requirements for these types of structures.
2. The applicant states that the property owner is an avid car collector and desires the additional space in order to keep their vehicles on their property rather in off-site storage.
3. It does not appear that there special circumstances or conditions that justify the variance request. In 2019, City Council approved amendments to C.O. 1165 to allow the size of accessory structures, which includes garages, to be larger and based the allowable garage area on the size of a lot. For lots greater than 1 acre in size, a detached accessory building is permitted to have an area of 1,200 square feet and lots greater than 2 acres, a maximum area of 1,600 is permitted.
4. Since the adoption of the code changes, the BZA, PC and ARB have approved the same variance request for lots that are either on the threshold of “moving up” into a larger acreage category, are located in transitional areas between the more developed areas of the city and township area or for properties that are much larger than contemplated in code. Transitional areas of the city can be found This property is .68 acres in size and the average residential lot size in New Albany is

- .59 acres.
5. The city's codified ordinances categories detached garages as a "detached structure" and allows a maximum of two of these structures per lot. Detached structures also include enclosed, accessory buildings such as pool houses and storage structures greater than 200 square feet in area. The property currently only has one detached structure, the existing garage, which the applicant is proposing to expand as part of this application. City code states that the maximum lot coverage for this property is 30%. While the structure is larger than what is permitted by code, the proposed 1,140 square foot structure takes up only 3.85% of the total lot area. The primary structure has building footprint of 2,872 square feet according to the Franklin County Auditor. If the proposed variance is approved and the garage constructed, the total lot coverage including the house and detached garage would be 13.54%, meeting this requirement.
 6. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a "substantial detriment." The proposed addition is appropriately designed to match the architecture of the existing structure on the property and is a one-story structure.
 7. It appears that this problem could be solved in a manner other than granting the variance request. For a property of this size, city code allows up to two, 800 square foot detached accessory structures to be constructed by right. The applicant could increase the size of this structure to 800 square feet and build an additional 800 square foot accessory structure on the property.
 8. It appears that granting the variance will not adversely affect the health and safety of persons residing in the vicinity.
 9. 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.

History:

In 2019, City Council approved amendments to C.O. 1165 to allow the size of accessory structures, which includes garages, to be larger and based on the size of a lot. The changes led to the creation of a tier system as follows:

- Lots less than 1 acre in size are permitted to have two detached accessory structures, each with an area of up to 800 square feet.
- Lots between 1 and 2 acres in size are permitted to have two detached accessory structures, each with an area of up to 1, 200 square feet.
- Lots greater than 2 acres in size are permitted to have two detached accessory structures, each with an area of up to 1, 600 square feet.

The intent of the code requirement is to ensure that these accessory structures are appropriately scaled in relation to the lot they are on. As the code changes were being drafted, staff provided research to the Board of Zoning Appeals and Planning Commission on the average residential lot size in New Albany to inform the creation of this tier system approach.

- 89% of residential lots in New Albany are less than 1 acre in size.
- 6% of residential lots in New Albany are between 1 and 2 acres in size.
- 5% of residential lots in New Albany are greater than 2 acres in size.
- The average residential lot size in New Albany is .59 acres.

Since the adoption of this code section, the Board of Zoning Appeals, Planning Commission and Architectural Review Board have approved variances to allow larger accessory structures than what is permitted by right under specific circumstances. Typically, the boards have approved these requests if (1) the size of a residential lot is slightly smaller than moving into the next tier, (2) they are larger lot

sizes not contemplated in code or (3) they are on lots that are located in transitional areas between more developed areas of the city and rural areas.

On August 24, 2020, the Board of Zoning Appeals approved a variance to allow a detached garage to be 1, 200 sq. ft. at 7514 Phelps Close (V-58-2020). The property is .956 acres in size, larger than the typical residential lot in the community and just .044 acres smaller than an acre. The BZA approved the variance since this property was so close to being 1 acre in size which would allow a structure of this size to be permitted by right.

On February 24, 2020, the Board of Zoning Appeals approved a variance to allow an existing detached structure to be enlarged to 4, 410 sq. ft. at 12 New Albany Farms Road (V-3-2020). The property is one of the largest residential lots in New Albany at 15.04 acres and the BZA approved the request based on this fact.

On November 23, 2020, the Board of Zoning Appeals approved a variance to allow a detached accessory structure to be 3, 200 sq. ft. in size at 10 New Albany Farms Road (V-84-2020). The property is one of the largest residential lots at 7.81 acres and the BZA approved the request based on this fact.

On October 19, 2020, the Planning Commission approved a variance to allow a detached accessory structure to be 1, 591 sq. ft. in size where city code allowed a maximum of 1, 200 square feet at 7435 Bevelhimer Road (V-60-2020). The PC supported the request as the property was located on a transitional road on the edge of the city. Additionally, the structure was designed to mimic a barn which are typically larger structures and appropriate on this site given its location.

On October 12, 2020, the Architectural Review Board approved a variance to allow an existing non-conforming, 3,000 sq. ft. barn to remain and be rebuilt if it is ever destroyed at 4653 Reynoldsburg New Albany Road (ARB-72-2020). The ARB approved the request as the structure is historic and located within a transitional area from the Village Center to the more rural sections of the community where this type of structure is appropriate.

Analysis

Through several accessory structure area variance applications, city staff, the Board of Zoning Appeals, Planning Commission and Architectural Review Board have had to weigh the importance of many factors in coming to decisions on the applications. As stated, the boards have taken the size of a lot and its location in the city into consideration when approving these types of requests.

This property is located in the heart of the New Albany Country Club and is very slightly larger than the typical residential lot size in New Albany. There are no special circumstances or conditions identified by staff or by the applicant that justify the variance request. It appears this problem could be solved in another manner other than granting the variance request. For a property of this size, city code allows up to two, 800 square foot detached accessory structures to be constructed by right. The applicant could increase the size of this structure to 800 square feet and build an additional 800 square foot accessory structure on the property.

IV. RECOMMENDATION

Staff is not supportive of the variance request. While the garage, as proposed, is only 340 sq. ft. larger than what is permitted by code for lots less than one acre in size, it does not appear that there are any special conditions or circumstances of the property that justify the variance request. The property is slightly larger than the average residential lot size in New Albany based on research conducted by city staff during the code adoption process. Historically, the BZA, PC and ARB have approved variances to the same code requirement when there are special circumstances or conditions of a particular property

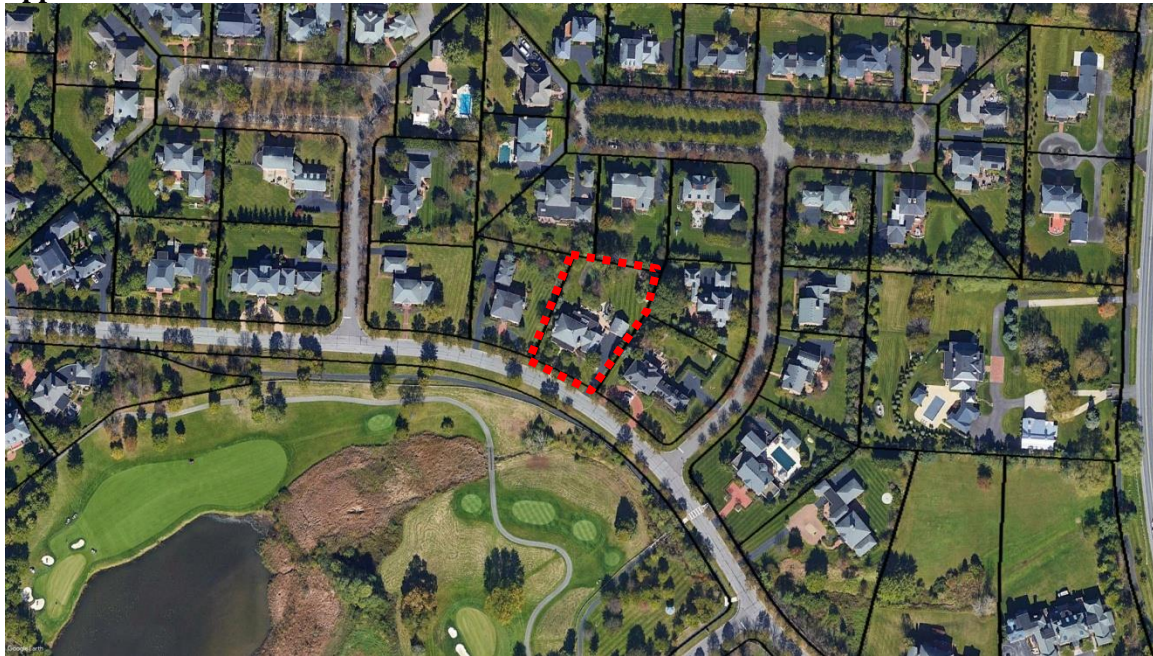
that do appear to be present in this application. Given the fact that this lot is only slightly larger than the average residential lot size in New Albany and that there are no special circumstances or conditions of the property, approving this variance may set a precedent for future similar cases.

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 V-32-2021 (conditions of approval may be added).

Approximate Site Location:



Source: Google Earth



**Board of Zoning Appeals Staff Report
April 26, 2021 Meeting**

LIMITATION TEXT HEIGHT VARIANCE

LOCATION: A portion of the properties generally located west of Beech Road and south of State Route 161 ((PIDs: 094-108192-00.000, 094-106494-00.002, 094-106404-00.000, 094-107388-00.000, 094-108582-00.000, 094-108390-00.000, 094-106836-00.004, 094-106644-00.001, 094-106644-00.000, 094-108270-00.000))

APPLICANT: MBJ Holdings LLC c/o Aaron Underhill, Esq.

REQUEST: (A) Variance to the Beech Interchange Subarea A and Winding Hollow Limited General Employment (L-GE) zoning districts to eliminate the 65-foot building height limitation required in each zoning text for properties generally located west of Beech Road and south of State Route 161

ZONING: Limited General Employment (L-GE)

STRATEGIC PLAN: Mixed Use

APPLICATION: V-34-2021

Review based on: Application materials received March 26, 2021.

Staff report prepared by Chris Christian, Planner

V. REQUEST AND BACKGROUND

The applicant requests a variance to eliminate the 65 foot building height limitation requirement for properties generally located west of Beech Road and south of State Route 161. The property is located within two different zoning districts. Since zoning “runs” with the land this one variance application applies to both zoning district’s limitation texts.

II. SITE DESCRIPTION & USE

The site is generally located in Licking County, south of State Route 161 and west of Beech Road across the street from the Facebook development site. The variance area is 163.33+/- acres in size and is currently undeveloped. The site is located within two zoning districts, all zoned Limited General Employment (L-GE).

III. EVALUATION

The application complies with application submittal requirements in C.O. 1113.03, and is considered complete. The property owners within 200 feet of the property in question have been notified.

Criteria

The standard for granting of an area variance is set forth in the case of *Duncan v. Village of Middlefield*, 23 Ohio St.3d 83 (1986). The 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. ASSESSMENT

Considerations and Basis for Decision

(A) Variance to the Beech Interchange Subarea A and Winding Hollow Limited General Employment (L-GE) zoning districts to allow buildings to eliminate the 65-foot building height limitation required in each zoning text for properties generally located west of Beech Road and south of State Route 161

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

1. The requested variance will eliminate the maximum 65 foot building height limitation for a 163.33+/- acre area located in Licking County. The variance applies to properties located within the Beech Interchange Subarea A and Winding Hollow Limited General Employment (L-GE) zoning districts.
2. The limitation text permits general office activities, warehouse & distribution, off-premises signs, research & production, and data center uses. Personal service and retail product sales and services are only allowed as accessory uses to a permitted use in this subarea.
3. Conditional uses include car fleet and truck fleet parking, and manufacturing and production.
4. Prohibited uses include industrial product sales and services, mini-warehouses, vehicle services, radio/television broadcast facilities, and sexually oriented business.
5. The essential character of the surrounding area will not be altered by granting the variance request. This variance request does not eliminate the architectural, screening, and landscaping requirements for this property.
6. It does not appear the variance is substantial. The site is located within the center of the Licking County Business Park south of State Route 161. The site is surrounded by property zoned for commercial uses. The Facebook site is located directly across the street along Beech Road, a planned Amazon Fulfillment Center will be located to the south and AEP owns property to the north and south of this site. The closest property that is not zoned for commercial uses is

- approximately 1, 300 +/- feet away from this property along Babbitt Road.
7. When the property was being annexed and rezoned via smaller, individual parcels, there were existing residentially neighboring this parcel. This created a temporary, “transitional” condition in which residentially used properties and commercially zoned properties were adjacent. However, since then the immediate vicinity has been annexed and rezoned to commercial uses.
 8. The variance preserves the spirit and intent of the GE zoning district and limitation texts because the height and setback requirement were established to provide design restrictions to minimize the impact of neighboring residential uses. 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. Similarly, this portion of the business park is entirely zoned for commercial and there are no residential “transitional” properties immediately adjacent or in the vicinity so the height restriction does not appear to be necessary.
 9. The applicant states that the increase for building height is necessary to attract development with unique building needs such as distribution facilities and data centers. Additionally, the applicant states that as technological advances and market trends have evolved taller buildings are more commonplace and necessary to meet the needs of these types of uses. The height limitation results in a suburban model of development that limits creativity in terms of design and architecture.
 10. 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 functions as an overlay with 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 does not establish a maximum height requirement 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.
 11. The variance also does not appear to be substantial since the base General Employment District (GE) zoning classification does not establish a maximum height requirement for the permitted uses in this zoning district. The Engage New Albany Strategic Plan provides guidance on a maximum building height for all of the employment center land use category which includes office, data centers, warehousing, and manufacturing uses. Removing the height restriction in this case is appropriate as the area is completely surrounded by commercial zoning districts and uses and ensures that the city is able to stay competitive by adapting to new technology and innovation within these sectors which will ensure the continued growth of the business park.
 12. Additionally, there are provisions within other surrounding zoning texts that allow buildings to be taller than the standard 65 feet. Other portions of the County Line zoning district allows buildings to exceed the 65 foot building height requirement with approval of the Planning Commission and the Beech Crossing zoning district, located north of State Route 161 permits a maximum building height of 80 feet for medical uses. Additionally, on May 27, 2020, the Board of Zoning Appeals approved the same variance request for the property just south of this area where an Amazon Fulfillment Center is planned to be constructed.
 13. It does not appear that the variance would adversely affect the delivery of government services, 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. Since a permit is submitted to the city the applicable fire department in conjunction with the city’s chief building official completes a review of the development and is made aware of a building’s height at that time.

IV. RECOMMENDATION

Staff recommends approval of the requested variance should the Board of Zoning Appeals find 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 height requirement does not exist in the city's standard General Employment District (GE) so the applicant seeks to restore what is a vested right in the city's codified ordinances. It does not appear that the essential character of the surrounding area will be altered if the variance is granted as the property is surrounded by commercial development with large scale data center campuses being built directly to the east and south of this site. Additionally, the variance request preserves the spirit and intent of the requirement which is to ensure proper visual separation between commercial and residential uses as the closest residential structure is located 2,300 +/- feet away.

The variance is needed in order to market the property for the all of the permitted uses including data center and distribution centers that are envisioned for this site. These industries have evolved as technology has advanced which requires the need for taller buildings. These uses are crucial as they contribute to the overall fiscal health of the New Albany economy. Eliminating the height restriction will ensure the city's business park remains competitive in the local and global market.

The zoning requirements for the Licking County portion of the New Albany business park has evolved since its beginnings in 2009. Recent limitation texts have begun to allow for building heights up to 80 feet where larger than typical setbacks can be achieved along adjacent, residentially used properties. In this case there are no adjacent residential properties so the height restriction appears unnecessary. Additionally, the zoning texts allow for the elimination of setbacks where commercial properties abut one another. Staff believes a similar exemption to allow for height restrictions to be eliminated under the same circumstances as this site should be considered for future rezonings to eliminate the need for variances.

V. ACTION

Should the Planning Commission find that the application has sufficient basis for approval, the following motions would be appropriate (The Planning Commission can make one motion for all variances or separate motions for each variance request):

Move to approve application V-34-2021.

Approximate Site Location:



Source: Google Earth



**Board of Zoning Appeals Staff Report
April 26, 2021 Meeting**

**AMAZON FULFILLMENT CENTER
SIGN VARIANCES**

LOCATION: 1245 Beech Road (PID: 094-106404-00.004)
APPLICANT: EMH&T c/o Amy Nagy
REQUEST: (A) Variance to C.O. 1169.16(d) to allow two wall signs to have an area of 270 sq. ft. where code allows a maximum of 75 sq. ft. based on building frontage.
(B) Variance to C.O. 1169.16(d) to allow a second wall sign to be installed on the Beech Road building elevation where code allows one per building frontage.
(C) Variance to C.O. 1169.16(d) to allow a wall sign to have an area of 297 sq. ft. where code allows a maximum of 75 sq. ft. based on building frontage.
(D) Variance to C.O. 1169.16(d) to allow two wall signs to have a lettering height of 5.4 feet where code allows a maximum of 3 feet.
(E) Variance to C.O. 1169.16(d) to allow vinyl to be used as a sign material for the “main entry” and “recruiting” canopy signs.
ZONING: Limited General Employment (L-GE)
STRATEGIC PLAN: Employment Center
APPLICATION: V-35-2021

Review based on: Application materials received March 26 and April 9, 2021.

Staff report prepared by Chris Christian, Planner

VI. REQUEST AND BACKGROUND

The applicant requests the following variances to the city sign code for a proposed Amazon Fulfillment Center located at 1245 Beech Road.

- (A) Variance to C.O. 1169.16(d) to allow two wall signs to have an area of 270 sq. ft. where code allows a maximum of 75 sq. ft. based on building frontage.
- (B) Variance to C.O. 1169.16(d) to allow a wall sign to have an area of 297 sq ft. where code allows a maximum of 75 sq. ft. based on building frontage.
- (C) Variance to C.O. 1169.16(d) to allow a second wall sign to be installed on the Beech Road building elevation where code allows one per building frontage.
- (D) Variance to C.O. 1169.16(d) to allow two wall signs to have a lettering height of 5.4 feet where code allows a maximum of 3 feet.
- (E) Variance to C.O. 1169.12(g)(2) to allow vinyl to be used as a sign material for the “main entry” and “recruiting” canopy signs.

V. SITE DESCRIPTION & USE

The site is located in Licking County, south of State Route 161 and west of Beech Road across the street from the Facebook development site. The site is 98.64 acres, is currently undeveloped and

surrounded by commercially zoned and used properties. The site is owned by Amazon and a fulfillment center is currently proposed to be constructed on the site.

VI. EVALUATION

The application complies with application submittal requirements in C.O. 1113.03, and is considered complete. The property owners within 200 feet of the property in question have been notified.

Criteria

The standard for granting of an area variance is set forth in the case of *Duncan v. Village of Middlefield*, 23 Ohio St.3d 83 (1986). The 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.

25. *Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.*
26. *Whether the variance is substantial.*
27. *Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment.”*
28. *Whether the variance would adversely affect the delivery of government services.*
29. *Whether the property owner purchased the property with knowledge of the zoning restriction.*
30. *Whether the problem can be solved by some manner other than the granting of a variance.*
31. *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*):

32. *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.*
33. *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.*
34. *That the special conditions and circumstances do not result from the action of the applicant.*
35. *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.*
36. *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. ASSESSMENT

Considerations and Basis for Decision

(A) Variance to C.O. 1169.16(d) to allow two wall signs to have an area of 270 sq. ft. where code allows a maximum of 75 sq. ft. based on building frontage.

(B) Variance to C.O. 1169.16(d) to allow a wall sign to have an area of 297 sq ft. where code allows a maximum of 75 sq. ft. based on building frontage.

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

14. C.O. 1169.16(d) states that wall signs are permitted to have one square foot for each linear foot of building frontage, up to 75 sq. ft.
 - i. The applicant proposes to install two identical wall signs featuring the company name and

logo. One will be on the Beech Road elevation of the building and the second on the Ganton Parkway West building elevation. Each sign has an area of 270 sq. ft. therefore a variance is required to allow them to be installed.

- ii. The applicant also proposes to install one wall sign featuring the company logo located above the main entrance to the building, providing additional wayfinding for users of the site along Beech Road.
15. The variance requests do not appear to be substantial due to the large size of the building. The Ganton Parkway building elevation is approximately 1, 271 feet long and the Beech Road elevation is 620 feet wide. Due to this large size, the proposed wall signs appear to be appropriately scaled in relation to the size of the building. If the applicant were to install wall signs that met code requirements, staff believes that they would be under scaled and appear out of place on the larger building.
16. It appears that there are special conditions and circumstances that justify the variance request. The city sign code provides a maximum sign size but does not consider the size of structures that are typically constructed in the Personal Care and Beauty portion of the New Albany Business Park. The permitted sign sizes are based on use categories and there is one size allowance for all commercial/warehousing buildings for the entire Business Park and is a one size fits all approach for all office, warehouse, distribution center, data center, etc. uses. This building is a larger warehouse building and larger than a typical commercial building which the sign code likely contemplated when it was written.
17. The Board of Zoning Appeals has approved similar variance requests to allow for larger signs on larger buildings. The BZA approved a sign area variance for the Pizutti Multi-tenant Building on October 28, 2019 (V-88-19) and for KDC on July 23, 2012 (V-4-2012).
18. Granting the variance appears to meet the spirit and intent of the zoning requirement because it ensures that the signs are appropriately scaled and designed for the building that they are located on. The city sign code requires signs “integrate with the building/site on which they are located and adjacent development in scale, design, and intensity. For example, large signs are best suited for buildings with larger massing.” The proposed signs meet this intent as they are well designed and appropriately scaled in relation to the large warehouse building thereby making the size appropriate in this case.
19. It does not appear that the essential character of the immediate area will be altered if the variance is granted. The site is located in the center of the New Albany Business Park and is completely surrounded by commercially zoned and used properties. Additionally, the building maintains large setbacks from both public roads, minimizing their visual impact. The building is setback approximately 600+/- feet from the future Ganton Parkway West and 480+/- feet from Beech Road. This variance request does not eliminate the architectural, screening, and landscaping requirements for this property.
20. Granting the variance will not adversely affect the health, safety or general welfare of persons living in the immediate vicinity.
21. Granting the variance will not adversely affect the delivery of government services.

(C) Variance to C.O. 1169.16(d) to allow a second wall sign to be installed on the Beech Road building elevation where code allows one per building frontage.

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

1. C.O. 1169.16(d) states that one wall sign is permitted to be installed per building frontage. The proposed building has frontage on Beech Road and the future Ganton Parkway West therefore two wall signs are permitted to be installed. The applicant proposes to install one wall sign on the Ganton Parkway West elevation and two on the Beech Road elevation, therefore a variance is required in order to allow a third wall sign to be installed.
2. The variance requests do not appear to be substantial due to the large size of the building. The Ganton Parkway building elevation is approximately 1, 271 feet long and the Beech Road elevation

is 620 feet wide. Additionally, the building is approximately 767, 000+/- sq. ft. in size making it one of the largest buildings in the city and larger than the typical buildings found in the New Albany Business Park. Due to this large size, having an additional wall sign is appropriate in this case. The additional wall sign features the company logo and is located above the main entrance of the building to provide additional wayfinding for users of the site.

3. It appears that there are special conditions and circumstances that justify the variance request. The city sign code provides a maximum number of signs but does not consider the size of structures that are typically constructed in the New Albany Business Park. This building is a larger warehouse building where additional wall signs are most appropriate.
4. The spirit and intent of the zoning requirement still appears to be met by granting the variance which is to ensure that buildings are not “over signed.” Due to the large size of the building, the additional wall sign is appropriate and the building elevation does not appear to be “over signed.” Additionally, the additional sign meets the context and compatibility requirements of the city sign code which states that signs must not create an appearance of competition between adjacent signs. All of the proposed wall signs have a similar scale, placement and proportions to create harmony.
5. It does not appear that the essential character of the immediate area will be altered if the variance is granted. The site is located in the center of the New Albany Business Park and is completely surrounded by commercially zoned and used properties. Additionally, the building maintains large setbacks from both public roads, minimizing their visual impact. This variance request does not eliminate the architectural, screening, and landscaping requirements for this property.
6. Granting the variance will not adversely affect the health, safety or general welfare of persons living in the immediate vicinity.
7. Granting the variance will not adversely affect the delivery of government services.

(D) Variance to C.O. 1169.16(d) to allow two wall signs to have a lettering height of 5.4 feet where code allows a maximum of 3 feet.

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

1. C.O. 1169.16(d) states that the maximum lettering height for wall signs at this location is 36 inches. The applicant proposes to install two wall signs with a lettering height of 5.4 feet, therefore a variance is required.
2. The spirit and intent of the zoning requirement is to ensure that letters are appropriately scaled in relation to the building. Due to the large size of this warehouse building, larger signs with larger lettering are appropriate as they are designed to scale appropriately in relation to the large building they are located on.
3. The variance requests do not appear to be substantial due to the large size of the building. The Ganton Parkway building elevation is approximately 1, 271 feet long and the Beech Road elevation is 620 feet wide and the overall height of the building great than 50 feet. Due to this large size, the proposed wall signs, with a larger lettering height, appear to be appropriately scaled in relation to the size of the building. If the applicant were to install wall signs that met code requirements, staff believes that they would be under scaled and appear out of place on the larger building.
4. It appears that there are special conditions and circumstances that justify the variance request. The city sign code provides a maximum lettering height size but does not consider the size of structures that are typically constructed in the New Albany Business Park. This building is a larger warehouse building and larger than a typical commercial building which the sign code likely contemplated when it was written.
5. It does not appear that the essential character of the immediate area will be altered if the variance is granted. The site is located in the center of the New Albany Business Park and is completely surrounded by commercially zoned and used properties. Additionally, the building maintains large setbacks from both public roads, minimizing their visual impact. This variance request does not eliminate the architectural, screening, and landscaping requirements for this property.

6. Granting the variance will not adversely affect the health, safety or general welfare of persons living in the immediate vicinity.
7. Granting the variance will not adversely affect the delivery of government services.

(E) Variance to C.O. 1169.12(g)(2) to allow vinyl to be used as a sign material for the “main entry” and “recruiting” canopy signs.

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

1. C.O. 1169.12(g)(2) states that any combination of the following materials may be used for permanent sign: wood, stone, brick, glass, metal, acrylic, PVC, medium/density overlay board, Aluminate, DiBond, LusterBoard or any other similar products. The applicant proposes to install two signs on the Beech Road elevation of the building made out of vinyl, therefore a variance is required.
2. The spirit and intent of the zoning requirement is to ensure that signs are designed using a high-quality building material. The city sign code does not expressly prohibit the use of vinyl however it does not permit it by right. Vinyl is a permitted sign material for window signs and has been successful elsewhere in the city. While the applicant proposes to use vinyl, the sign material appears to be durable and fade resistant and located on the canopy and provide additional wayfinding for users of the site.
3. The variance requests do not appear to be substantial. The building is setback approximately 480+/- feet from Beech Road, reducing the visibility of these signs and the material used for the signs will not be apparent from public rights-of-way. These signs are secondary compared to the main wall signs proposed for the building and will only draw attention to and be seen by people on the site. The site will contain heavy mounding and landscape screening along Beech Road and it doesn’t appear that these signs will be visible from the road.
4. It does not appear that the essential character of the immediate area will be altered if the variance is granted. The site is located in the center of the New Albany Business Park and is completely surrounded by commercially zoned and used properties. Additionally, the building maintains large setbacks from both public roads, minimizing their visual impact.
5. Granting the variance will not adversely affect the health, safety or general welfare of persons living in the immediate vicinity.
6. Granting the variance will not adversely affect the delivery of government services.

VII. RECOMMENDATION

Staff recommends approval of the requested variances should the Board of Zoning Appeals find 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 properties that are also developed with large scaled buildings. Due to the larger size of this warehouse building and its location adjacent to similar structures, additional larger signs are appropriate. The building will be screened with mounds and landscaping, and maintains large setbacks along both public roads, reducing the visibility of these signs from public rights-of-way.

The city’s sign code contains context, compatibility, and execution requirements for all permanent signage in the city. The city sign code contains a “one-size fits all” size and height category for all commercial and warehouse developments. This building is one of the largest in the city and business park. Approving the variances ensure the signs accomplish and meet these requirements given the building’s unique size and scale. All of the proposed signs are appropriate in this case as they are all scaled, located and designed appropriately on the building and provide additional wayfinding for users of the site.

V. ACTION

Should the Planning Commission find that the application has sufficient basis for approval, the following motions would be appropriate (The Planning Commission can make one motion for all variances or separate motions for each variance request):

Move to approve application V-35-2021.

Approximate Site Location:



Source: Google Earth