

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 7:00 p.m.

Those answering roll call:

Ms. Andrea Wiltrout Present
Mr. Everett Gallagher Present

Mr. Kirk Smith Present (7:36 p.m.)

Ms. Kerri Mollard Absent
Mr. Shaun LaJeunesse Present
Mr. Michael Durik (for Ms. Brisk) Present

(Ms. Wiltrout, Mr. Gallagher, Mr. Smith, Mr. LaJeunesse, and Mr. Durik 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 April 26, 2021 meeting minutes, seconded by Ms. Wiltrout. Upon roll call: Mr. Gallagher, yea; Ms. Wiltrout, yea; Mr. LaJeunesse, yea. Yea, 3; Nay, 0; Abstain, 0. Motion carried by a 3-0 vote.

Ms. Wiltrout 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.

Ms. Cindy Kingery, Mr. Noel Lavelle, and Ms. Rebecca Green said they swore to tell the truth and nothing but the truth.

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

#### VAR-45-2021 Variance

Variances to the temporary sign code regulations of C.O. 1169.10(a) and (b) to allow temporary signs to be larger and displayed longer than city code allows at 9999 Johnstown Road for the Sheetz development (PID: 222-000616).

Applicant: Sheetz, c/o Cindy Kingery

Mr. Christian presented the staff report.

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

Ms. Rebecca Green, for Sheetz, asked Mr. Christian to put the applicant's presentation on screen.

Ms. Cindy Kingery, for Sheetz, described the signs and their usage.

Mr. Gallagher asked if the signs had a standard frame around them.

Ms. Kingery stated the signs would be zip tied on the light poles and were within a frame.

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Ms. Kingery discussed further detail on the signs on the light poles, windows, and doors. Ms. Kingery explained the reasons for the variance request.

Mr. Gallagher explained the discussion and approval of the staff report was separate from the discussion and approval for the variance.

Ms. Kingery thanked Mr. Gallagher for the procedural explanation.

Ms. Green stated the reasons the signs were needed and the need to have the signs up for an extended period of time. Ms. Green said the number of days were not out of character for a commercial area. Ms. Green discussed how the variance request met the Duncan factors.

Ms. Wiltrout stated she appreciated Ms. Green's discussion of the Duncan factors in her presentation. Ms. Wiltrout asked staff if she could see the business event site banner again, as that one would be up the longest.

Mr. Christian posted the presentation on the screen.

Ms. Green stated she believed Ms. Wiltrout was asking about the light pole sign that had the hiring information on it.

Ms. Wiltrout stated the "You asked for it" sign.

Ms. Green stated yes.

Ms. Wiltrout stated that the staff report had a condition that the countdown pole banner sign would be removed no later than fourteen (14) days after final occupancy.

Ms. Green stated they would like to have both of those time frames extended, most specifically for the hiring events as that was very important. Ms. Green stated that the signs referred to as countdown signs (indicating "opening in \_\_\_\_ weeks") they would also like to have up longer than fourteen (14) days after opening as they could be used to let the community know the services offered at the location. Ms. Green stated they would amend their request to have the sign up at least another thirty (30) to ninety (90) days after the opening.

Mr. LaJeunesse asked Ms. Kingery if the countdown signs would be repurposed after the countdown ended and the store opened.

Ms. Kingery stated not on the window or door signs. Ms. Kingery stated the goal for the doors was to only have two (2) of the jobs "you asked for it" signs. Ms. Kingery stated the "opening in \_\_\_\_ weeks" they would like to repurpose for any kinds of sales, etc,.

Mr. LaJeunesse stated they were then looking to repurpose that space with a sign that would tell a different story.

Ms. Kingery stated that was correct.

Mr. LaJeunesse stated it was not just the countdown sign, it was the space the applicant wanted to be flexible enough so they could do whatever they wanted with that sign.

Ms. Kingery stated that was correct.

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Ms. Wiltrout stated one of the conditions in the staff report about the business event signs was that they were permitted for a total of three (3) monthly periods per hiring event. Ms. Wiltrout asked about the different hiring events they were planning on having, what were the timelines on that.

Ms. Kingery stated this was their Phase 4 of the temporary signs and there was currently a Phase 3 hiring banner, through a permit, on the Sheetz location today. Ms. Kingery stated they would need to have more events to bring more people in throughout the year to be fully manned.

Mr. LaJeunesse asked staff if they were aware the intent was to repurpose the countdown signs.

Mr. Mayer stated that was not their understanding. Mr. Mayer stated the sign Code classified a business event sign as a sign advertising a business event and it should not exceed sixteen (16) square feet in size and also said that the default was that a business event sign could not be displayed for more than thirty (days). Mr. Mayer stated businesses were allowed three (3) of those events per year, so it was really for a maximum duration during a year of ninety (90) days.

Mr. Durik stated that anything that became a permanent sign would need to be reviewed by the Architectural Review Board.

Mr. Mayer stated this was just outside the Village center, so the Architectural Review Board would not need to review these signs.

Mr. Durik stated okay.

Ms. Wiltrout said the tie between the need for the signs for hiring events due to the need to increase employment as a result of unprecedented times did not seem to also apply to signs for promotions or sales events.

Ms. Green stated they anticipated to need hiring signs for one (1) year. Ms. Green stated the other signs were needed to make the community aware of business products and services and were needed for an extended period after the store's opening. Ms. Green noted this was a retail area and it was not a substantial variance even if the request was for more than thirty (30) days and it was a new store and this was needed for its success.

Mr. LaJeunesse asked if there were provisions in the Code that would allow for permanent signs that would permit the applicant to discuss their services, etc.

Mr. Mayer stated that if the copy were to be changed to create a permanent sign there would be other considerations. Mr. Mayer stated issues such as materials, number of colors, etc., would come into play and may create the need for certain waivers in that case.

Mr. Gallagher asked Ms. Kingery if the applicant had reviewed the zoning requirements prior to coming to New Albany.

Ms. Kingery stated they had and noted they had not meant to have permanent signs and these were looked at as temporary.

Mr. Gallagher stated they had been aware of the rules when they made their decision.

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Ms. Kingery stated yes. Ms. Kingery said they knew employment would take a long time and they were asking for temporary signs and an extension of a few weeks or months to allow people to know Sheetz was more than a gas station.

Mr. Mayer stated that staff had not had all of the information the applicant provided in the presentation regarding staffing and the BZA could consider that information.

Mr. Gallagher said he was concerned about setting a precedent and how it would impact others. Mr. Gallagher stated he was fine with the size variance but had issues with the longer duration.

Ms. Wiltrout stated she shared Mr. Gallagher's concern. Ms. Wiltrout stated she was fine with fourteen (14) days noted in the staff report or even with a three (3) month period for the B2 signs. Ms. Wiltrout said an open ended sign variance would set a bad precedent and other businesses in the area had come in and not needed similar signage to create a thriving business.

Ms. Kingery asked if three (3) months with an extension was possible.

Moved by Mr. Gallagher to accept the staff report for VAR-32-2021 (variances A, B, and C) into the record, seconded by Ms. Wiltrout. Upon roll call vote: Mr. Gallagher, yea; Ms. Wiltrout, yea; Mr. LaJeunesse, yea. Yea, 3; Nay, 0; Abstain, 0. Motion carried by a 3-0 vote.

Moved by Mr. Gallagher to approve application VAR-32-2021 (A), variance to C.O. 1169.10(a) to allow two temporary business event signs to be 17.88 square feet in size where code allows a maximum of 16 square feet, seconded by Ms. Wiltrout. Upon roll call vote: Mr. Gallagher, yea; Ms. Wiltrout, yea; Mr. LaJeunesse, yea. Yea, 3; Nay, 0; Abstain, 0. Motion carried by a 3-0 vote.

Mr. LaJeunesse asked when hiring would begin and if hiring had already begun.

Ms. Kingery stated hiring had started last month.

Mr. Christian noted Mr. Smith had joined the meeting via Zoom.

Moved by Ms. Wiltrout to approve application VAR-32-2021 (B), variance to C.O. 1169.10(a) to allow two business event signs to be installed longer than 30 days as permitted by code with the condition that the countdown C2 signs on the pole banners be removed fourteen (14) days after final occupancy is issued for the building and that the business event B2 signs and future hiring signs be permitted for up to a total of ninety (90) days with additional duration subject to BZA approval, seconded by Mr. LaJeunesse. Upon roll call vote: Ms. Wiltrout, yea; Mr. LaJeunesse, yea; Mr. Gallagher, yea; Mr. Smith, abstain. Yea, 3; Nay, 0; Abstain, 1. Motion carried by a 3-0-1 vote.

Ms. Wiltrout asked if the business event signs were the pole banners.

Mr. Christian stated they were B2 and C2 (shown on the presentation on the screen).

Mr. LaJeunesse asked why they would keep the countdown sign up after store opening, why would fourteen (14) days be needed.

Ms. Wiltrout stated it was requested by the applicant and she viewed it as de minimis.

Mr. LaJeunesse asked if Ms. Wiltrout would be okay if they repurposed that sign after opening for fourteen (14) days.

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Ms. Wiltrout stated yes, for fourteen (14) days she was okay with the applicant repurposing the sign.

Mr. LaJeunesse stated okay.

Mr. Gallagher asked if they could permit this to be continuous but only allow it for total of ninety (90) days and then, if applicants needed more time, they could return to the BZA.

Moved by Mr. Smith to approve application VAR-32-2021 (C) variance to C.O. 1169.10(b) to allow two temporary window signs to be installed for up to a total of ninety (90) days with additional duration subject to BZA approval, seconded by Mr. LaJeunesse. Upon roll call vote: Mr. Gallagher, yea; Mr. LaJeunesse, yea; Ms. Wiltrout, yea; Mr. Smith, abstain. Yea, 3; Nay, 0; Abstain, 1. Motion carried by a 3-0-1 vote.

#### VAR-37-2021 Variances

Variances to C.O. 1167.03(d) to allow a residential driveway to be 16 feet wide where code allows a maximum of 12 feet at 7384 Hampstead Square North(PID: 222-001674-00)

Applicant: Noel Lavelle

Mr. Christian presented the staff report.

Ms. Wiltrout asked if the applicant wished to speak.

Mr. Noel Lavelle discussed the application and the need for the variance.

Mr. LaJeunesse asked if the neighbors both had a sixteen (16) foot wide driveway.

Mr. Lavelle stated yes.

Mr. Gallagher asked if they had obtained variances for that.

Mr. Lavelle stated they were at sixteen (16) feet prior to the neighbors' purchases of the properties and he believed prior variances had not been obtained.

Mr. Mayer stated they had investigated this and that information was not available.

Mr. Gallagher asked if other areas with larger driveways were mostly areas with bigger lots.

Mr. Mayer stated it depended on the factors involved.

Mr. Gallagher asked if it would affect water retention.

Mr. Mayer stated it should be minimal but they were not sure.

Mr. Gallagher asked where the water would flow and if it would affect any neighbors' yards.

Mr. Mayer stated it would flow down the driveway and drain to the public street inlet.

Ms. Wiltrout stated that it appeared the trend was for larger driveways and asked staff if there were other, recent, subdivisions in New Albany with twelve (12) foot driveways.

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Mr. Mayer stated sixteen (16) foot driveways had been used in communities with short driveway lengths, particularly in age restricted communities. Mr. Mayer noted it was not a trend but was needs based.

Moved by Mr. Gallagher to accept the staff report for VAR-37-2021 into the record, seconded by Mr. Smith. Upon roll call vote: Mr. Gallagher, yea; Mr. Smith, yea; Mr. LaJeunesse, yea; Ms. Wiltrout, yea. Yea, 4; Nay, 0; Abstain, 0. Motion carried by a 4-0 vote.

Moved by Mr. LaJeunesse to approve application VAR-37-2021, 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.

Mr. Gallagher noted his vote was due to consistency on the street as both neighbors had sixteen (16) foot driveways and said he would not have voted for the variance otherwise.

Ms. Wiltrout stated she was hesitant to approve as owners who purchase property do so with knowledge of the zoning. Ms. Wiltrout stated in this case, the applicant had neighbors who had done this. Ms. Wiltrout stated she also thought the neighborhood would not be adversely affected.

Ms. Wiltrout asked if there was any other business.

Mr. Christian stated none from staff.

Ms. Wiltrout adjourned the meeting.

Meeting adjourned at 7:56 p.m.

Submitted by Josie Taylor.

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## **APPENDIX**



Board of Zoning Appeals Staff Report May 24, 2021 Meeting

## SHEETZ TEMPORARY SIGNS VARIANCES

LOCATION: 9999 Johnstown Road (PID 222-000616)

APPLICANT: Sheetz, c/o Cindy Kingery

REQUEST: (A) Variance to C.O. 1169.10(a) to allow two temporary business event signs

to be 17.88 square feet in size where code allows a maximum of 16 square feet.

(B) Variance to C.O. 1169.10(a) to allow two business event signs to be

installed longer than 30 days as permitted by code.

(C) Variance to C.O. 1169.10(b) to allow two temporary window signs to be

installed longer than 45 days as permitted by code.

ZONING: Walton-62 Commerce I-PUD Zoning District

STRATEGIC PLAN: Retail

APPLICATION: VAR-45-2021

Review based on: Application materials received on May 13, 2021.

Staff report prepared by Chris Christian, Planner.

#### I. REQUEST AND BACKGROUND

The applicant requests the following variances for temporary signage for the new Sheetz development which is currently under construction on Johnstown Road, across the street from the Canini Trust Corp.

- (A) Variance to C.O. 1169.10(a) to allow two business event signs to be 17.88 square feet in size where code allows a maximum of 16 square feet.
- (B) Variance to C.O. 1169.10(a) to allow two business event signs to be installed longer than 30 days as permitted by code.
- (C) Variance to C.O. 1169.10(b) to allow two temporary window signs to be installed longer than 45 days as permitted by code.

#### II. SITE DESCRIPTION & USE

The 12.47-acre zoning district is largely undeveloped currently. On March 16, 2020, the Planning Commission reviewed and approved a final development plan application for a Sheetz gas station and convenience store which is currently under construction on this site (FDP-15-2020). Some of the permitted uses in this zoning district include carry out food and beverage establishments, hotels and retail stores.

#### III. ASSESSMENT

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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.

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#### III. EVALUATION

All three variance requests are related to temporary signage shown below.



## (A) Variance to C.O. 1169.10(a) to allow two business event signs to be 17.88 square feet in size where code allows a maximum of 16 square feet.

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

- 1. The applicant requests to install two business event signs, identified as signs B2 and C2 in the submittal above, on the site that are 17.88 square feet in size. C.O. 1169.10(a) states that business event signs are limited to maximum area of 16 square feet therefore a variance is required. The temporary sign code does not limit the location of these types of signs and the applicant proposes to design them as banners and locate them on a light pole.
- 2. C.O. 1169.10(a) provides the regulations for business event signs—a sign advertising a business event may not exceed a maximum of 16 square feet in area unless it is a sign covering all portions of an existing permitted sign. Additionally, the code section states that the sign must be located on the premises of the business event. No business shall display the sign for more than thirty days and only three business event signs are permitted per site, per year. The applicant is requesting variances to allow two of these signs to be installed, each with an area of 17.88 square feet.
- 3. The applicant states that these signs are standard for Sheetz and used to advertise when the store will be open and inform residents of job opportunities. These two signs will be installed on light poles on the site.
- 4. The variance request does not appear to be substantial. The intent of these signs is to better prepare this new business to attract customers by letting them know when it will be open and to attract job applicants. This will ensure that this store is able to contribute to the retail success that currently exists in this immediate area. While the signs are larger than allowed, they are only 1.88 square feet larger than what is permitted by right.
- 5. It does not appear the essential character of the neighborhood would be substantially altered if the variance request is granted. This site is located within a zoning district where retail uses are permitted and where this type of additional signage is most appropriate. Staff recommends that the BZA confirm where these signs will be located as they were not identified in the

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- application. The city sign code does not permit off-site signage or signs to be located in the right-of-way.
- 6. It appears that granting the variance will not adversely affect the health and safety of persons residing in the vicinity.
- 7. 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.

# (B) Variance to C.O. 1169.10(a) to allow two business event signs to be installed longer than 30 days as permitted by code.

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

- 1. The applicant requests to install two business event pole banner signs, identified as sign B2 and C2 in the submittal for longer than 30 as permitted by code therefore a variance is required. C.O. 1169.10(a) provides the regulations for business event signs—a sign advertising a business event may not exceed a maximum of 16 square feet in area unless it is a sign covering all portions of an existing permitted sign. Additionally, the code section states that the sign must be located on the premises of the business event. No business shall display the sign for more than thirty days and only three business event signs are permitted per site, per year. The applicant is requesting variances to allow two of these signs to be installed for longer than 30 days.
- 2. The applicant states that these signs are standard for Sheetz and used to advertise when the store will be open and inform residents of job opportunities. These two signs will be installed on light poles on the site.
- 3. The submittal states the applicant requests that both the now hiring sign (sign B2) and countdown information (sign C2) be allowed to be installed 365 days per year <u>Staff recommends that the BZA confirm with the applicant how long they intend on keeping these signs on the site for just one year or year-after-year.</u>
- 4. Staff is supportive of allowing the now hiring pole banner (sign B2) to be installed longer than 30 days on an as needed basis during hiring events. However, allowing the hiring to be installed all year would make it a permanent sign. The applicant proposes to install the same now hiring sign in a store window.
- 5. Staff is not supportive of allowing the countdown to opening sign be installed all year. It does not appear that the sign providing countdown information needs to be installed all year long. Staff recommends the duration of the countdown sign (C2) match commercial construction sign regulations and C.O. 1169.10(c) states that these signs shall be removed within 14 days after construction is complete. Staff recommends a condition of approval that the countdown banner sign (C2) be removed no later than 14 days after final occupancy is issued for the building.
- 6. The variance requests do not appear to preserve the "spirit and intent" of the zoning requirement. Business event and temporary window signs are meant to have a limited life-span on an as needed basis in order to minimize the number of signs at a building and site. Allowing for these signs to be up all year round will likely result in the signs being installed after or in-between events which is not the intent of the city sign code.
- 7. The variance request does not appear to be substantial. The intent of these signs is to better prepare this new business to attract customers by letting them know when it will be open and to attract job applicants. This will ensure that this store is able to contribute to the retail success that currently exists in this immediate area.
- 8. The essential character of the area may be substantially altered if the variance request is granted. While this site is located within a zoning district where retail uses are permitted and where this type of additional signage is most appropriate, it is temporary in nature to minimize the visual impact so the site doesn't feel "over-signed." The applicant has indicated these banner signs will be installed on light posts close to the public street to maximize their visibility. The Walton/62 zoning district has prescribed ground sign standards to ensure there is

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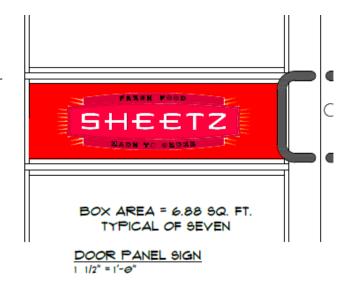
- a uniform sign treatment along the public rights-of-way. Approving a one-year duration may set precedent for other retail users within the business park.
- 9. It appears that granting the variance will not adversely affect the health and safety of persons residing in the vicinity.
- 10. It appears 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.

## (C) Variance to C.O. 1169.10(b) to allow two temporary window signs to be installed longer than 45 days as permitted by code.

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

- 1. The applicant requests to install two temporary window signs, identified as sign B1 and C1 in the submittal. C.O. 1169.10(b) stats that signs placed in first floor windows so as to be visible from the right-of-way will be considered temporary. Temporary window signs are limited to one per window, up to (3) three windows, not to exceed 15% of the area of the windows in which they are placed. The applicant proposes to install two window signs, each with an area of 3.05 sq. ft. (less than 6% of the total window area) for longer than 45 days as permitted by code therefore a variance is required.
- 2. The applicant states that these signs are standard for Sheetz and used to advertise when the store will be open and inform residents of job opportunities. These two signs will be installed on the windows of doors into the building. The submittal states that the applicant requests that the now hiring sign (sign B1) and the countdown information (sign C1) be ongoing. Staff recommends that the BZA confirm with the applicant how long they intend on keeping these signs on the site and the total number of window signs they desire to have.
- 3. Staff is supportive of allowing the now hiring window sign to be installed on an as needed basis during hiring events however, it does not appear that the sign providing countdown information needs to be installed all year long.
- 4. <u>Staff recommends the duration of the countdown sign match commercial construction sign which is regulated by C.O. 1169.10(c) and states that these signs shall be removed within 14 days after construction is complete. <u>Staff recommends a condition of approval that the countdown window sign be removed no later than 14 days after final occupancy is issued for the building.</u></u>
- 5. The variance request does not appear to be substantial. The intent of these signs is to better prepare this new business to attract customers by letting them know when it will be open and to attract job applicants. This will ensure that this store is able to contribute to the retail success that currently exists in this immediate area. The signs are meeting all other code requirements and are designed to draw attention of users of the building, taking up less than 6% of the total window area.
- 6. It does not appear the essential character of the neighborhood would be substantially altered if the variance request is granted. This site is located within a zoning district where retail uses are permitted and where this type of additional signage is most appropriate. Sheetz did receive approval from the Planning Commission to install permanent window signs on the doors into the building as depicted below. The proposed additional window signs are half of the size of the permanent signs and appear to be appropriately scaled for the content displayed, taking up less than 6% of the total window area.

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- 7. It appears that granting the variance will not adversely affect the health and safety of persons residing in the vicinity.
- 8. It appears that the variance will not adversely affect the delivery of government services, the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

### IV. RECOMMENDATION

Staff is supportive of the requested variances with the conditions that the signs related to the countdown of days until the business is open be removed no later than 14 days after final occupancy is issued. The site is located in a zoning district where retail uses are permitted which is where this type of signage is most appropriately located. The applicant states that this additional signage is targeted to inform residents when the project will be complete and to fill job openings both of which will contribute to the success of this location and that this temporary sign package is consistent with other Sheetz locations.

To staff's knowledge, this is the first variance request to the temporary sign code. Staff desires to support and help ensure the success of businesses in the city especially given the known pandemic related, staffing challenges that these types of businesses are experiencing. Going into the future, staff wants to ensure there is a proper and fair balance of temporary signage permitted compared to the community's other retail users. To accomplish this, staff recommends:

- Countdown to opening signs C1 and C2 are allowed to be installed longer than code allows but must be removed 14 days after occupancy.
- Hiring Event sign C1 (temporary window sign) be approved to be ongoing.
- Hiring Event sign C2 (temporary business event banner sign) be permitted for three months per hiring event and that additional duration is subject to staff approval.

## V. ACTION

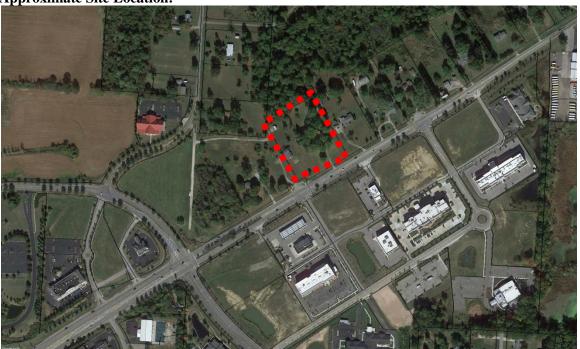
Should the Board of Zoning Appeals find that the application has sufficient basis for approval, the following motion would be appropriate (conditions may be added):

Move to approve application V-45-2021 with the following conditions (conditions of approval may be added).

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- 1. The countdown pole banner sign be removed no later than 14 days after final occupancy is issued for the building.
- 2. The countdown window sign be removed no later than 14 days after final occupancy is issued for the building.
- 3. Business event banner sign B2 and any future hiring signs are permitted for three months per hiring event. Additional duration is subject to staff approval.

**Approximate Site Location:** 



Source: Google Earth

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## Board of Zoning Appeals Staff Report May 24, 2021 Meeting

## 7384 HAMPSTEAD SQUARE NORTH DRIVEWAY WIDTH VARIANCE

LOCATION: 7384 Hampstead Square North (PID 222-001674-00)

APPLICANT: Noel Lavelle

REQUEST: Variance to C.O. 1167.03(d) to allow a residential driveway to be 16 feet wide

where city code allows a maximum of 12 feet.

ZONING: R-4

STRATEGIC PLAN: Residential APPLICATION: VAR-37-2021

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

Staff report prepared by Chris Christian, Planner.

### V. REQUEST AND BACKGROUND

The applicant requests a variance to C.O. 1167.03(d) to allow an existing residential driveway to be 16 feet wide where city code allows a maximum of 12 feet.

### VI. SITE DESCRIPTION & USE

The .26 acre property is located in section 3 of the Hampstead Village subdivision, is zoned R-4 and contains a single-family home. The property is surrounded by residentially zoned and used properties.

#### VII. 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.

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- 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.

## IV. EVALUATION

## Variance to C.O. 1167.03(d) to allow a residential driveway to be 16 feet wide where city code allows a maximum of 12 feet.

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

- 8. The applicant proposes to enlarge an existing 12-foot-wide residential driveway to have width of approximately 16 feet at the right-of-way line. C.O. 1167.03(d) states that the maximum residential driveway width at the right-of-way line is 12 feet therefore, a variance is required.
- 9. The applicant states that they own a large SUV and due to the length of the vehicle and the width of the existing driveway, it is difficult to maneuver larger vehicles.
- 10. It does not appear that there are special circumstances or conditions that justify the variance request. The lot's shape is a perfect square. Additionally, the required front yard building setback is 30 feet which is a typical setback for New Albany subdivisions. The R-2, R-3, and R-4 zoning districts all require a minimum front yard setback of 30 feet. The R-1 District requires a minimum 50 feet front yard setback.
- 11. Historically the Planning Commission has approved requests to allow wider driveways for residential subdivisions. Staff found the following:
  - o Nottingham Trace: 16-foot-wide driveway permitted at right-of-way via a zoning text modification requested by the developer
  - o Courtyards at New Albany: 16-foot-wide driveway permitted at right-of-way via a zoning text modification requested by the developer
  - o Redwood: Zoned to allow for 16-foot-wide driveway permitted at right-of-way
  - O Upper Clarenton: 16-foot-wide driveway at right-of-way approved via a zoning text modification by the developer for lots where a three-car garage has been approved (By default this means when a two-car garage is being built, a twelve foot wide driveway will be applicable)
  - o Links: Zoned to allow for 18-foot-wide driveway at right-of-way
  - o Enclave: Zoned to allow for 18-foot-wide driveway at right-of-way
  - o Saunton: Zoned to allow for 18-foot-wide driveway at right-of-way
  - o Tidewater: Zoned to allow for 18-foot-wide driveway at right-of-way
  - o Wentworth Crossing: Zoned to allow for 18-foot-wide driveway at right-of-way
  - o Country Club (Generally): 12-foot-wide driveway permitted at right-of-way
  - Code (non-PUD or where text is silent): 12-foot-wide driveway permitted at right-ofway

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- 12. The spirit and intent of the zoning requirement is to maximize green space along the public roadways by enlarging tree lawns by providing less pavement via limiting the drive way width at the right-of-way line.
- 13. It does not appear the essential character of the neighborhood would be substantially altered nor is the request substantial. The applicant has identified several properties in this section of the Hampstead Village subdivision that have driveways that are wider than 12 feet at the right-of-way line. The two properties adjacent to this home both have driveways that are larger than permitted by right therefore it does not appear that granting this variance request will alter the essential character of the neighborhood.
- 14. It appears that this problem could be solved in a manner other than granting the variance request. The requirement is designed to minimize the appearance and impact of curbcuts at the right of way. To accommodate 2 and 3 car garages, the driveway width is permitted to increase after the right of way line as it approaches the garage. Typically, property owners taper the pavement down to 12 feet in width at the sidewalk/right-of-way line. It appears that this solution would be feasible at this property.
- 15. It appears that granting the variance will not adversely affect the health and safety of persons residing in the vicinity. Below is a picture of the driveway. There is no public infrastructure such as street trees or storm inlets that would be affected by the widening of the driveway four feet



17. It appears that the variance will not adversely affect the delivery of government services, the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

### V. RECOMMENDATION

The spirit and intent of the zoning requirement is to maximize the amount of green space provided on a residential property by limiting the driveway width. While the variance request does not appear to meet this spirit and intent, there are quite a few both along this street and in this overall section of Hampstead Village that have driveway widths that exceed 12 feet therefore it does not appear that the granting the is substantial. It does appear that this problem could be solved in a manner other than granting the request by widening the driveway on the interior of the property but tapering it back down to 12 feet at the right-of-way line. However, there are many other subdivisions that allow for wider curb cut widths so approving this variance would not appear out of place within the overall community. Additionally, in most other circumstances where wider curbs cuts are allowed, it is part of the zoning so it can be considered when constructing public infrastructure such as street trees and storm grates. It appears the wider curb cut in this circumstance would not negatively affect the existing street trees so it does not

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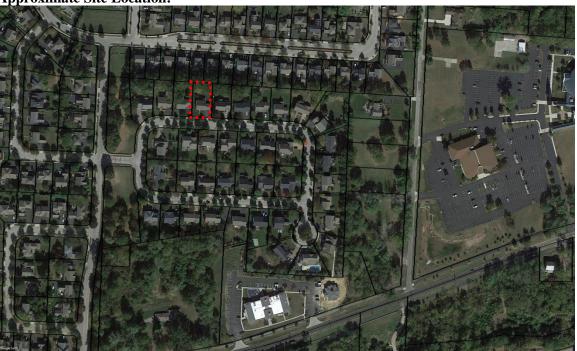
appear the essential character of the neighborhood would be substantially altered or adjoining properties suffer a "substantial detriment.".

## VI. 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-37-2021 (conditions of approval may be added).

**Approximate Site Location:** 



Source: Google Earth

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