



New Albany Board of Zoning Appeals
October 25, 2021 Minutes

New Albany Board of Zoning Appeals met in the Council Chamber of Village Hall, 99 W. Main Street and was called to order by Board of Zoning Appeals Chair, Ms. Wilttrout, at 7:00 p.m.

Those answering roll call:

Ms. Andrea Wilttrout	Present
Mr. Everett Gallagher	Present
Mr. Kirk Smith	Absent
Ms. Kerri Mollard	Present
Mr. Shaun LaJeunesse	Present
Mr. Matt Shull (for Ms. Brisk)	Present

Staff members present: Steven Mayer, Development Services Coordinator; Chris Christian, Planner; and Josie Taylor, Clerk.

Moved by Mr. Gallagher to approve the September 27, 2021 meeting minutes, as amended per his comments regarding his recusal from review and consideration of VAR-97-2021, seconded by Ms. Wilttrout. Upon roll call: Mr. Gallagher, yea; Ms. Wilttrout, yea; Mr. LaJeunesse, yea; Ms. Mollard, yea. Yea, 4; Nay, 0; Abstain, 0. Motion carried by a 4-0 vote.

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

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

VAR-100-2021 Variance

Variance to allow a new commercial storage building to encroach 29 feet into a platted 50 foot rear yard setback at 5850 Zarley Street (PID: 222-000264-00).

Applicant: Heninger Construction

Mr. Christian presented the staff report and noted the applicant had provided the lot coverage information. Mr. Christian said the application had been revised and discussed the changes.

Ms. Mollard asked if fire and emergency service vehicles would still have access to the site after the changes that were made.

Mr. Heninger stated yes and noted they would review that with the fire department as well.

Mr. Christian stated that the applicant had met Code standards for the width of the drive aisle and staff believed it would work.

Mr. Mollard stated okay.

Ms. Wilttrout asked if that would normally be in a condition of approval or whether it was standard.

Mr. Christian stated the fire department would review it as part of the building permit for the project, but not as a condition of approval.

Ms. Wiltrout stated she wanted to recognize that of the proposed variances the first had shrunk considerably, which she appreciated and the second she felt was de minimis. Ms. Wiltrout stated she appreciated that the area around the site was consistent with the variances requested and she supported this.

Ms. Wiltrout asked if the applicant was fine with the conditions in the staff report.

Mr. Heninger stated it should not be a problem and he agreed.

Moved by Ms. Wiltrout to accept the staff report for VAR-100-2021 into the record, seconded by Mr. LaJeunesse. Upon roll call vote: Ms. Wiltrout, yea; Mr. LaJeunesse, yea; Mr. Gallagher, yea; Ms. Mollard, yea. Yea, 4; Nay, 0; Abstain, 0. Motion carried by a 4-0 vote.

Moved by Mr. LaJeunesse to approve application VAR-100-2021 with the conditions in the staff report, seconded by Ms. Wiltrout. Upon roll call vote: Mr. LaJeunesse, yea; Ms. Wiltrout, yea; Mr. Gallagher, yea; Ms. Mollard, yea. Yea, 4; Nay, 0; Abstain, 0. Motion carried by a 4-0 vote.

Other Business

Mr. Christian noted there would be BZA meetings in November and there was a December 27, 2021 BZA meeting and asked if BZA members would be available for such meeting.

Ms. Wiltrout stated she would be in town for December but out of town for November.

Mr. Gallagher asked if the date could be moved to perhaps December 20th.

Mr. Christian stated he would check.

Ms. Mollard stated she would also prefer that.

Ms. Wiltrout polled members for comment. (No response.)

Ms. Wiltrout adjourned the meeting.

Meeting adjourned at 7:20 p.m.

Submitted by Josie Taylor.

APPENDIX



Board of Zoning Appeals Staff Report October 25, 2021 Meeting

TROVE WAREHOUSE SETBACK & LOT COVERAGE VARIANCES

LOCATION: 5850 Zarley Street (PID: 222-000264-00).
APPLICANT: Heninger Construction
REQUEST:
(A) Variance to allow a new commercial storage building to encroach 16 feet into a platted 50-foot rear yard building setback.
(B) Variance to C.O. 1153.04(e) to allow a total lot coverage of 78% of the site where code allows a maximum of 75%.

ZONING: Limited Industrial
STRATEGIC PLAN: Employment Center District
APPLICATION: VAR-100-2021

Review based on: Application materials received September 3, 2021.

Staff report prepared by Chris Christian, Planner.

I. REQUEST AND BACKGROUND

The applicant requests the following variances as part of the construction of a new commercial storage building.

- (A) Variance to allow a new commercial storage building to encroach 16 feet into a platted 50-foot rear yard building setback.
- (B) Variance to C.O. 1153.04(e) to allow a total lot coverage of 78% of the site where code allows a maximum of 75%.

This application was tabled by the BZA at their September 27, 2021 meeting in order for the applicant to determine the new lot coverage amount with the proposed improvements. Since then, the applicant has revised the application in the following ways:

- The proposed encroachment into the rear yard has been reduced from 29 feet to 16 feet.
 - The new building was moved closer to the existing structure and some paved areas were eliminated.
- The previous variance request to encroach into the screen planting area has been withdrawn.
- A variance to allow a larger lot coverage percentage has been requested.

II. SITE DESCRIPTION & USE

The 1 acre site is located in the Zarley Industrial Park in Franklin County and contains a 8,000+/- sq.ft. commercial building that was built in 1987. On September 16, 2013, the Planning Commission approved a conditional use to allow a retail store to be located at the site (CU-166-13).

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

(A) Variance to allow a new commercial storage building to encroach 16 feet into a platted 50-foot rear yard building setback.

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

1. The Board of Zoning Appeals tabled this application at their September 27, 2021, meeting in order for the applicant to determine the proposed new lot coverage for the site. Since then, the

applicant has significantly reduced the proposed setback encroachment from 29 feet to 16 feet into the required 50 rear yard platted setback.

2. The property is located in the Zarley Industrial Park in Franklin County. The site currently contains an 8,000 sq. ft. commercial building as well as paved and gravel parking areas. On October 28, 2013, the BZA approved variances for the site to allow the existing gravel driveway to remain and to allow the building to encroach 4.5 feet into the required side yard (V-194-2013). The building is occupied by Trove Warehouse which is permitted as a conditional use by the Planning Commission on September 16, 2013 (CU-166-13).
3. The industrial park was platted in 1986 and the plat includes required setbacks for the properties. The plat states that there is a 50-foot rear yard building setback for this site. Additionally, within this 50-foot building setback, there is a 25-foot screen planting area requirement.
4. The applicant proposes to construct a new 3,750 sq. ft. commercial storage building located 34 feet from the rear property line therefore, a variance to the building setback requirement is required. Currently, the existing gravel parking lot is located 30 feet away from the required rear property line and the existing building is located approximately 115+/- feet away, meeting the plat setback requirements.
5. The setbacks on the plat match the current zoning district standards for adjacent residential properties. C.O 1153.04(f) states that in no case shall there be any structure, service, parking area in any LI (Limited Industrial) district located less than 50 feet from where residences are a permitted use. The plat was recorded in 1986 and based on aerial imagery from 1995 (shown below), it appears that the land at the rear yard of this property was likely zoned to allow residential uses which explains the larger setback being included on the plat. These setbacks and additional landscaping are required to provide proper separation and screening between dissimilar uses.



6. The variance does not appear to be substantial in this case. Since the time the Zarley plat was recorded, the neighboring property was rezoned in 1999 as part of the Trust Corp Mixed Use zoning district that permits commercial zoning. The property is developed and used as the Smith's Mill Office Park (2019 aerial below). Therefore, the 50-foot building setback no longer appears necessary given the current uses.
7. The base LI district requires for any structure or service area within the LI or GE Districts, the required rear yard shall not be less than twenty-five (25) feet from any interior lot line. While the

applicant proposes to encroach within the platted setback, it meets the base setback requirement of the code for this zoning district. The proposed structure will still be located 150+/- feet away from the nearest building on the adjacent property where the encroachment is proposed.



8. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment.” While the applicant is not meeting the required setback along the rear property line, the proposed structure will maintain significant separation between this site and the buildings located on the adjacent site, an adequate landscape buffer area is still maintained along the rear property line and the applicant proposes to bring the site more in to conformance with city code as they are paving the existing gravel parking lot.
9. The Zarley Park plat establishes a screen planting area around the entire industrial park that is intended to provide a landscape buffer to adjacent properties outside of the park. The screen planting area ranges from 15 feet in width to 25 feet in width. Even with the encroachment the proposal maintains this screening area.
10. The intent of the screen planting area is so there is a buffer space to provide 75% opacity screening. The 75% opacity screening was installed when the conditional use application was approved. Staff recommends a condition of approval requiring landscaping that is removed as part of construction along the rear property line must be replaced in order to ensure the amount of landscaping and screening is still being provided.
11. There is no additional parking required or proposed. The city parking code requires two parking spaces for each three employees during work shift having greatest number of employees, plus one for each vehicle maintained on the premises for warehouse and distribution uses. The applicant states that the proposed structure will be used entirely for storage and will not generate any new employees therefore no additional parking spaces are required to be installed on the site.
12. Framing drawings of the proposed structure were provided and it appears that the new structure is appropriately scaled as secondary in relation to the existing building as it will be 3 feet shorter.
13. It appears that granting the variance will not adversely affect the health and safety of persons residing in the vicinity.
14. Granting the variance would not adversely affect the delivery of government services.

(B) Variance to C.O. 1153.04(e) to allow a total lot coverage of 78% of the site where code allows a maximum of 75%.

1. The Board of Zoning Appeals tabled this application at their September 27, 2021, meeting in order for the applicant to determine the proposed new lot coverage for the site. C.O. 1153.04(e)

states that the maximum lot coverage, including structures and paved areas, shall not exceed 75% and that the remainder of the site shall be landscaped with natural vegetation. With the proposed improvements, the lot coverage for the site will be 78% therefore a variance is required.

2. The variance does not appear to be substantial. While the applicant proposes to exceed the maximum lot coverage requirements, it is only by 3% which is not substantial and will not be noticeable compared to other sites in the immediate area.
3. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment” if the variance is granted. The applicant does propose to exceed the lot coverage requirements for the site however, a large majority of the commercial zoning districts in the immediate vicinity have a maximum lot coverage of 80% including the Canini Trust Corp and the zoning district that Sheetz is located in. If the variance is approved, the applicant will be meeting this established standard in the area which will not alter its essential character.
4. The Zarley Park plat establishes a screen planting area around the entire industrial park that is intended to provide a landscape buffer to adjacent properties outside of the park. The screen planting area ranges from 15 feet in width to 25 feet in width. Even with the larger lot coverage, the proposal maintains this screening area.
5. It appears that granting the variance will not adversely affect the health and safety of persons residing in the vicinity.
6. Granting the variance would not adversely affect the delivery of government services.

IV. RECOMMENDATION

Staff recommends approval of the variance application should the Board of Zoning Appeals finds that the application has sufficient basis for approval. While the applicant is not meeting the required rear yard, setback established on the 1986 plat, the development context in the area has changed significantly since the site was first developed negating the need for the 50-foot building setback.

Overall, the requests do not appear to be substantial. The retail business proposes to construct a storage facility. The business is located within the city’s only limited industrial zoned district. Many other existing businesses have storage facilities incorporated into their site. Given the zoning districts permitted and conditional uses it does not appear to be out of character with a industrial park development pattern. Additionally, the proposed lot coverage amount for the site is not out of character with the maximum lot coverage permitted for other commercially zoned properties in the immediate area. The Engage New Albany strategic plan recommends improving the industrial park’s streetscape so it provides the same amenities (street trees, sidewalks, etc) as the surrounding business park. The proposed variances will not negatively affect these recommended improvements or make the site feel more at odds with the immediate surroundings.

V. ACTION

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

Move to approve application VAR-100-2021 with the following condition (conditions of approval may be added).

1. Any landscaping that is removed as part of construction along the rear property line must be replaced.

Approximate Site Location:



Source: Google Earth