

New Albany Board of Zoning Appeals Agenda

November 22, 2021 7:00pm

Members of the public must attend the meeting in-person to participate and provide comment at New Albany Village Hall at 99 West Main Street. The meeting will be streamed for viewing purposes only via Zoom Webinar. There is no public participation via the Zoom Webinar.

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Information and directions for logging into this meeting can be found at www.newalbanyohio.org

- I. Call To Order
- II. Roll Call
- **III.** Action of Minutes: October 25, 2021
- IV. Additions or Corrections to Agenda

Swear in All Witnesses/Applicants/Staff whom plan to speak regarding an application on tonight's agenda. "Do you swear to tell the truth and nothing but the truth".

- V. Hearing of Visitors for Items Not on Tonight's Agenda
- VII. Cases:

VAR-112-2021 Variances

Variances to allow an accessory structure to be 2,040 sq. ft. in size where code allows a maximum of 1,600, to allow an accessory structure to be 30 feet tall where code allows a maximum height of 25 feet, to allow gravel to be used as a driveway material and to eliminate the pool fencing requirements at 1 Balfour Green (PIDs: 222-004303 and 222-004304).

Applicant: Marano Design Group, c/o Thomas Marano

- VIII. Other Business
- IX. Poll members for comment
- X. Adjournment



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

Mr. Everett Gallagher

Mr. Kirk Smith

Ms. Kerri Mollard

Mr. Shaun LaJeunesse

Mr. Matt Shull (for Ms. Brisk)

Present

Present

Present

Present

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. Wiltrout. Upon roll call: Mr. Gallagher, yea; Ms. Wiltrout, yea; Mr. LaJeunesse, yea; Ms. Mollard, yea. Yea, 4; Nay, 0; Abstain, 0. Motion carried by a 4-0 vote.

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

Ms. Wiltrout 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. Wiltrout 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.
 - o 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



Board of Zoning Appeals Staff Report November 22, 2021 Meeting

1 BALFOUR GREEN VARIANCES

LOCATION: 1 Balfour Green (PIDs: 222-004303 and 222-004304)

APPLICANT: Marano Design Group, c/o Thomas Marano

REQUEST: (A) Variance to C.O. 1165.04(a)(1) to allow an accessory structure to be

2,040 square feet in size where city code allows a maximum of 1,600

square feet.

(B) Variance to C.O. 1165.04(a)(3) to allow a detached accessory structure to be 30 feet tall where code allows a maximum height of 25

feet

(C) Variance to the New Albany Design Guidelines and Requirements Section V(I.A.1) to allow gravel to be used as a driveway material.

(D) Variance to C.O. 1173.02(e) to eliminate the pool fence requirement.

ZONING: R-1

STRATEGIC PLAN: Residential APPLICATION: VAR-112-2021

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

Staff report prepared by Chris Christian, Planner.

I. REQUEST AND BACKGROUND

The applicant requests the following variance related to the addition of an accessory structure and a pool at 1 Balfour Green in the New Albany Farms subdivision.

- (A) Variance to C.O. 1165.04(a)(1) to allow an accessory structure to be 2,040 square feet in size where city code allows a maximum of 1,600 square feet.
- (B) Variance to C.O. 1165.04(a)(3) to allow a detached accessory structure to be 30 feet tall where code allows a maximum height of 25 feet.
- (C) Variance to the New Albany Design Guidelines and Requirements Section V(I.A.1) to allow gravel to be used as a driveway material.
- (D) Variance to C.O. 1173.02(e) to eliminate the pool fence requirement.

II. SITE DESCRIPTION & USE

This 14.32+/- acre site is currently made up of two properties which will be combined into one as part of the permitting process. The site is located in the New Albany Farms subdivision, west of Kitzmiller Road and north of Morse Road. It is zoned R-1 and contains a single-family home. The surrounding properties are residentially zoned and used.

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 C.O. 1165.04(a)(1) to allow an accessory structure to be 2,040 square feet in size where city code allows a maximum of 1,600 square feet.

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

- 1. The applicant proposes to construct a 2,040 square foot accessory structure near the center of the property. C.O. 1165.04(a)(1) states that the maximum permitted area for a detached structure on a greater than 2 acres is 1,600 square feet therefore, a variance is required.
- 2. The site is currently made up of two properties that will be combined into one as part of the permitting process for this structure with a total lot size of 14.32+/- acres. Staff recommends a condition of approval that the two lots are combined.
- 3. The variance request meets the spirit and intent of the requirement which is to ensure that detached structures are properly scaled in relation to the size of the lot. The code requirement sets maximum area requirements for all lots with the understanding that there would be instances, such as this one, where a variance would be required for larger

lots with more development space.

- o 95% of the lots within New Albany are two acres or less and only 5% are greater than 2 acres.
- o The current code allows for an additional 400 square feet of space for every acre, starting at a maximum of 800 for lots less than 1 acre.
- Once the two existing lots are combined, the property will be 14.32+/- acres in size, making it one of the largest residential lots in the city. The accessory structure appears to be appropriately scaled considering the size of the lot.
- 4. The variance does not appear to be substantial. While the structure is larger than what is permitted by code, the structure takes up less than 0.32% of the total lot area.
- 5. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a "substantial detriment." The property is located adjacent to the New Albany Farms subdivision which is made up of the largest residentially used lots and primary dwellings in New Albany therefore this structure will not alter the character of the neighborhood.
- 6. 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. 1165.04(a)(3) to allow a detached accessory structure to be 30 feet tall where code allows a maximum height of 25 feet.

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

- 1. C.O. 1165.04(a)(3) states that detached accessory structures are permitted to be no taller than the primary structure on a lot and not exceed 25 feet in height. The proposed accessory structure will be 30 feet tall therefore, a variance is required.
- 2. The variance request meets the spirit and intent of the requirement which is to ensure that detached structures are appropriately scaled in relation to the primary structure on the site. While the applicant proposes to exceed the 25-foot height limitation, it is shorter than the 45.5-foot-tall primary structure on the property. This ensures that the proposed accessory structure will be secondary in comparison to the primary home, accomplishing the spirit and intent of the requirement.
- 3. The variance does not appear to be substantial. The applicant states that the accessory structure is designed as a barn. The city architect states that historically, barns are larger and taller structures used to store larger vehicles and equipment. The variance appears to be appropriate given the barn is designed with a historic size and shape and the appearance it has been renovated over time.
- 4. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a "substantial detriment" if the variance is granted. The property is located in the New Albany Farms subdivision which is made up of the largest residential lots and structures in New Albany therefore this larger, taller structure will not alter this established character.
- 5. 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 the New Albany Design Guidelines and Requirements Section V(I.A.1) to allow gravel to be used as a driveway material.

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

1. New Albany DGR Section 5 (I.A.1) states that asphalt, brick, stone, or simulated stone driveway pavers are appropriate surfaces for driveways and parking areas. The site is currently served by two driveways, one drive that leads to the primary home on the property and a secondary gravel drive that leads to the center of the site. The existing gravel drive is 915-foot-long and the applicant is seeking a variance to allow it to remain gravel and extend it 525 feet further into the property to lead to a gravel parking lot that

- will serve the proposed accessory structure.
- 2. The variance does not appear to be substantial. A large portion of the gravel driveway exists today and is used as a secondary driveway for the property that does not serve the primary structure. Additionally, the same request has been approved by the Architectural Review Board at 3915 Reynoldsburg New Albany Road (ARB-72-2015). In their approval, the ARB stated that the use of the material was appropriate as the property was along a rural roadway, it was an existing condition and it matched the rural/agrarian character of the area. The proposed variance appears to have the same circumstances. The property is located on a private road and the general character of the New Albany Farms subdivision is rural due to the large size of the lots, therefore, the use of gravel appears appropriate in this case.
- 3. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a "substantial detriment" if the variance is granted. The property is located in the New Albany Farms subdivision which is made up of private roads that are not accessible to the general public and this secondary driveway does not serve the primary home on the property. For these reasons, granting the variance is not precedent setting for future, similar cases.
- 4. 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.

(D) Variance to C.O. 1173.02(e) to eliminate the pool fence requirement.

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

Site Specific Considerations:

- 1. Codified Ordinance Section 1173.02(e) requires that any private swimming pool, or the property on which the pool is located, shall be enclosed by a wall or fence constructed so as to prevent uncontrolled access. Such wall or fence shall be of such design and construction as to effectively prevent a child from crawling or otherwise passing through or under such fence or barrier. Such wall or fence shall not be less than forty-eight (48) inches in height, maintained in good condition by the property owner, and affixed with an operable gate and lock.
- 2. The city's pool and fence code does not prescribe any particular style or type of fence other than saying such design and construction is to effectively prevent a child from crawling or otherwise passing through or under such fence or barrier.
- 3. The pool is located near the center of the property, adjacent to the proposed accessory structure.
- 4. There is an existing 4 rail horse fence along the parcel frontage of Balfour Green, Kitzmiller Road and Morse Road. The height and design of horse fence is not designed to prevent uncontrolled access. There is substantial landscaping throughout the entire site and a large pond in the eastern portion of the site.
- 5. This parcel is one of the largest in the entire city at 14.32+/- acres resulting in the pool being located greater distances from other residential properties and public roads. The pool is approximately 355 feet from Kitzmiller Road, 399 feet from Balfour Green, 490 feet from Morse Road and 330 feet from the western property line. Additionally, the property is located in the New Albany Farms subdivision which is a gated community that the general public does not have access to. All of these factors contribute to limiting the ability to gain access to the pool.
- 6. The applicant proposes to use an ASTM certified automatic pool safety cover. This is a similar pool cover the BZA approved for the same variance request at 6, 10 and 14 New Albany Farms. Pool covers are recognized by some building codes as an appropriate method to secure a pool. However, the city has not adopted a code that allows the use of covers. The city's private swimming pool ordinance regulates the construction of private pools within the city and requires a 4-foot fence affixed with an operable gate and lock.

7. It does not appear the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a "substantial detriment". The pool is adequately screened and substantially setback from public rights-of-way.

History:

There have been several similar applications heard by either the Board of Zoning Appeals or the Planning Commission since 2007.

- 1. The BZA denied a variance to allow a pool cover for a residence on 15.6 acres in Illmington in 2007. The BZA cited safety and liability concerns as reasons for denying the variance request.
- 2. The BZA denied a variance to allow a pool cover in 2010 for a home on a 0.5 acre parcel in Fenway. The BZA cited safety and liability concerns as reasons for denying the variance request.
- 3. The BZA approved a variance to allow a pool cover in-lieu of a fence on May 28, 2014 for 14 New Albany Farms Road. The BZA stated the size of the property (19.9 acres), proximity to other parcels and limited access due to private streets creates special conditions and circumstances which are peculiar to the land that results in a general isolation from neighbors. The parcel at 14 New Albany Farms is one of the largest in the gated Farms subdivision resulting in the pool being located a much greater distance from the parcel lines and roads. For this reason, the BZA approved the variance while stating some homes may be too close to each other for a pool cover.
- 4. The BZA approved a variance to allow a pool cover in-lieu of a fence on September 22, 2014 for 6 New Albany Farms Road. The BZA stated this lot having heavy woods on three sides of the property results in a general isolation from neighbors and being within the Farms community which is gated and has private streets creates special conditions and circumstances which are peculiar to the land.
- 5. The PC approved a variance to allow a pool cover in-lieu of a fence that meets code requirements on April 18, 2016 for 6958 Lambton Park Road. Members voting in favor of the variance noted that with conditions of approval the variance preserves the spirit and intent of the zoning ordinance, appears to have limited access due to the private golf course, substantial screening, horse fence, the property's size and lack of neighbors create special circumstances, and having an annually certified pool cover. Members voting against the variance noted this is because there is not a condition requiring code compliant fencing along Johnstown Road and lack of evidence that pool covers have the same safety record as fences, and this is substantial because it affects the health and safety in the community. The conditions of approval are:
 - An automatic safety pool cover is installed that is ASTM compliant as and if amended.
 - The pool area is fully enclosed by a house, fence, or wall.
 - The existing 54" and 44" horse fence counts towards the enclosure of the pool.
 - The new fence installed must meet the new proposed pool code requirements that the Planning Commission recommended approval of on April 18th.
 - The pool cover is certified annually by the homeowner.
- 6. The BZA approved a variance to allow a pool cover in-lieu of a fence on November 23, 2020 for 10 New Albany Farms Road (VAR-84-2020). The BZA stated the size of the property (7.81 acres), proximity to other parcels and limited access due to private streets creates special conditions and circumstances which are peculiar to the land that results in a general isolation from neighbors. The members who voted against the variance stated that they did not believe that the applicant demonstrated how the pool cover would provide the same safety as a fence and the fact that there is not an established process to verify that the pool covers are certified annually.

Analysis

Through several pool barrier variance applications city staff, the Board of Zoning Appeals and Planning Commission have had to weigh the importance of many factors in coming to decisions on the applications. Some of the factors stated on the record are proximity of the property to other

residences, public accessibility to the property and the effectiveness of a pool cover in providing safety.

The other variances within the New Albany Farms subdivision were approved because the BZA determined the gated community with private streets, the large size of the properties and proximity to other parcels create special conditions and circumstances which are peculiar to the land that results in a general isolation from neighbors. All applications have included the installation of a powered automatic safety cover.

This property contains many similarities with the homes at 6, 10 and 14 New Albany Farms in terms of limited proximity and access.

The parcel is one of the largest in the city at 14.32+/- acres. The pool is centrally located behind the home and is substantially setback from all property lines which contribute to limiting access to the pool. Additionally, the property is located in a gated community which substantially limits access to the pool from the general public. There is substantial landscaping on the site, providing an adequate barrier to the pool from neighboring properties and areas outside of the gated community. It appears these are factors related to this parcel that help to prevent uncontrolled access and therefore not adversely affect the public safety of those residing or working in the vicinity similar to 6, 10 and 14 New Albany Farms.

IV. RECOMMENDATION

Staff is supportive of the variance requests for the proposed accessory structure. Even though the accessory structure is larger and taller than what is permitted by code, it is appropriately scaled in relation to the lot as it makes up less than 0.32% of the total lot area. Additionally, while it is taller than what is permitted by code it is still shorter than the primary home on the property which accomplishes the spirit and intent of the requirement. The use of gravel as a driveway material appears to be appropriate in this case due to the rural/agrarian character of the neighborhood, the fact that it is located on private street and that it is not the driveway for the primary home on the property.

Staff is also supportive of the pool fence variance request. The property shares the same characteristics with 6, 10 and 14 New Albany Farms where the same variance was granted by the BZA in the past. The large size of the property in addition to being located in a gated community address proximity and access factors that have been important in other past variances since it creates special conditions and circumstances which are peculiar to the land that results in a general isolation from neighbors and public roads.

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-112-2021 with the following condition.

- 1. The two properties must be combined as part of the permitting process.
- 2. The automatic pool cover is installed and certified annually by the homeowner.

Approximate Site Location:



Source: Google Earth

Pe	rmit #	
- 1	Board	
Mtg.	Date	



Community Development Planning Application

	1205, 666	209509
Acres H.5Z	# of lots created	1
Choose Application Type	Circle	all Details that Apply
☐ Appeal ☐ Certificate of Appropriateness ☐ Conditional Use ☐ Development Plan ☐ Plat ☐ Lot Changes	Preliminary Final Preliminary Final Combination Split	Comprehensive Amendment Adjustment
UMinor Commercial Subdivision Vacation Variance	Easement	Street
DEExtension Request	Amendment (rezoning)	Text Modification
non-to Nome in Mic	LIVEL CRUSE	
Property Owner's Name: MK Address: FARIS 1A, City, State, Zip: NEW	HAEL GROSE 1 BALFOUR O LBANY, OHO	9PEECH 43054
Address: FARMS 1A,		PRESCH 43054 Fax:
Address: FARMS 1A, City, State, Zip: NEW A Phone number: Email: MGROSS Applicant's Name: Address: 475 S.		43054
Address: FARTS 1A, City, State, Zip: NEW A Phone number: Email: MGROSS Applicant's Name: HC	MARAND THE ST. CHICA ST. C	43054
Address: FARMS 1A, City, State, Zip: NEW A Phone number: Email: MGROSS Applicant's Name: Address: HS City, State, Zip: Ox HM Phone number: GIP E- Email: MARANC	THERE ON ONE OF THE STATE OF TH	Fax: Fax: GHGFOUT: COM re essential to process this application of New Albany representatives, and post a notice on the property



October 21, 2021

Variance Request:

Construction of a detached accessory structure and pool on the property located at 1 Balfour Green, New Albany Ohio, 43054.

- (A) Variance C.O. 1165.04(a)(1) to allow a detached accessory structure to be 2,040 square feet where the city code allows a maximum of 1,600 square feet.
- (B) Variance C.O. 1165.04(a)(3) to allow a detached accessory structure to be taller than 25 feet.
- (C) Variance to New Albany Design Guidelines and Requirements Section 5(I)(A)(1) to allow gravel to be used as a driveway material.
- (D) Variance C.O. 1173.02(e) to eliminate the pool fence requirement.

The applicant proposes a 2,040 square foot, 30-foot-high detached pool house and pool with an automatic safety cover accessed by a private gravel driveway to the South and behind the main residence. The design intent is that of a newly renovated, existing timber framed barn reminiscent of the smaller scaled 30-foot by 60-foot timber barn structures commonly found in the Midwest. The size of the structure relates back to the scale of the existing semi-detached garage of the main residence. Additionally, the dark oversize handmade brick complements the main house brick and overall darker color scheme.

Since the combined lot acreage totals 14.3 acres the structure is appropriately sized based on previously approved variances allowing for an additional square footage ensuring that the detached structure is properly scaled in relation to the size of the lot. The height of the structure is based upon typical barn proportions and roof slopes. In order to come in under 25 feet in height the integrity of the overall design would be compromised. The new structure shall not alter the essential character of the New Albany Farms as it takes up less than 1% of the total lot area and cannot be seen from any adjacent property or the public right-of-way. Located to the South, behind the main residence, the structure is approximately 280-feet off the West property line with a 230-foot-wide tree preservation zone to screen it from the neighbor to the West. The structure is approximately 570-feet off Morse Road to the South and 420-feet off Kitzmiller road to the East. Additionally, an earth berm and heavy wood screen the structure from both of these roads. Located approximately 600-feet off the Farms public road to the North, the primary residence completely screens the proposed structure from view. The new gravel driveway can only be accessed from Balfour Green, a private drive. Lastly, in lieu of an additional pool fence on the property the applicant is requesting use of an automatic pool safety cover since the pool is isolated from public access and this is a typically approved solution. Based on those criteria and previously approved variances within the New Albany Farms community we request approval of the aforementioned variances here.

PARCELS WITHIN 200' OF SUBJECT PROPERTY

Parcel Number	Parcel Address	Owner Name	Owner Address	City	State	Zip Code
220-000565-00	7006 MORSE RD	ONE NEW ALBANY FARMS LLC	330 W SPRING ST STE 400	COLUMBUS	ОН	43215
220-000360-00	3900 KITZMILLER RD	BROWN MAX S TR	3900 KITZMILLER RD	NEW ALBANY	ОН	43054
222-001836-00	MORSE RD	NEW ALBANY FARMS ASSN INC	8000 WALTON PKWY STE 250	NEW ALBANY	ОН	43054
222-001843-00	1 NEW ALBANY FARMS	ONE NEW ALBANY FARMS LLC	330 W SPRING ST STE 400	COLUMBUS	ОН	43215
222-001839-00	KITZMILLER RD	WEXNER LESLIE H	4155 KITZMILLER RD	NEW ALBANY	ОН	43054



Coverstar Automatic Covers and UL / ASTM standard F 1346-91

All Coverstar cover systems including the Eclipse (CS 1800 SS), CS1800 (CS 1800), Leading Edge (CS1800 LE), CS1800 SwimWise (CS1800 SW), Omega (CS 1800), CS3000 (CS 1800) are UL listed (UL certification listing is shown in parenthesis). All meet the ASTM standard for safety covers as specified in ASTM standard F 1346-91 when they are installed and maintained properly according to the installation and homeowner instructions which have been provided by Coverstar. On several different occasions, the Coverstar covers, both automatic and manual have been tested by independent testing laboratories and have always been found to be in compliance with all the ASTM requirements for safety covers. Our covers are also listed by UL (File E164833) and classified by UL as a power safety cover in accordance with ASTM F 1346-91

If you wish to verify either of the UL certifications, take the following steps:

Go to www.ul.com

Once there click on Search UL.com

Click on Online Certifications Directory.

Under General Search click on UL File Number

Type in E164833 and hit enter

You should now see Coverstar's listings. If you have problems, you can also search by company or by Automatic Pool Covers

If more information is required about ASTM and its standards, you can go to their website at www.astm.org.

Shown below is the UL authorized label that is attached to the automatic cover system that we ship which shows both UL certification and compliance with ASTM F 1346-91. A label is also placed on the front of every cover stating that we meet the ASTM safety standards.

POWER	ED SAFETY	COVER	
MODELOWNER		CULUS	Safety Pool Cover Operator 98RJ
DATE SERIAL#		ALSO CL	ASSIFIED SAFETY COVER
8 8 Amperes 110 Volts 60 H;		in accords ASTM F 1	ance with



Designation: F 1346 – 91 (Reapproved 2003)

Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs¹

This standard is issued under the fixed designation F 1346; the number immediately following the designation indicates the year of original adoption or, in the case of revision, the year of last revision. A number in parentheses indicates the year of last reapproval. A superscript epsilon (ϵ) indicates an editorial change since the last revision or reapproval.

1. Scope

- 1.1 This specification establishes requirements for safety covers for swimming pools, spas, hot tubs, and wading pools (hereinafter referred to as pools, unless otherwise specified). When correctly installed and used in accordance with the manufacturer's instructions, this specification is intended to reduce the risk of drowning by inhibiting the access of children under five years of age to the water.
- 1.2 This specification includes performance tests to demonstrate the compliance or noncompliance to requirements herein stated for safety covers. It also includes marking requirements for all covers.
- 1.3 The values stated in inch-pound units are to be regarded as the standard. The values in parentheses are given for information only.
- 1.4 The following safety hazards caveat pertains only to the test methods section, Section 9, of this specification: This standard does not purport to address all of the safety concerns, if any, associated with its use. It is the responsibility of the user of this standard to establish appropriate safety and health practices and determine the applicability of regulatory limitations prior to use.

2. Referenced Documents

2.1 NFPA Document:
National Electrical Code, Article 680-26²

3. Terminology

- 3.1 Definitions of Terms Specific to This Standard:
- 3.1.1 appurtenances—subordinate parts or adjunct accessory components to the cover such as hardware including buckles, straps, ties, springs, anchors, tracks, rollers, lifting arms, and the like.
- ¹ This specification is under the jurisdiction of ASTM Committee F15 on Consumer Products and is the direct responsibility of Subcommittee F15.28 on Covers for Pools, Spas, and Hot Tubs.
- Current edition approved Feb. 10, 2003. Published May 2003. Originally approved in 1991. Last previous edition approved in 1996 as F 1346–91 (1996).
- ² Available from National Fire Protection Assoc., Batterymarch Park, Quincy, MA 02269.

- 3.1.2 automatic cover—a cover which can be placed over the water area and removed with a motorized mechanism actuated by a suitable control mechanism. See also power safety cover (PSC), other cover (OC).
- 3.1.3 *barrier*—something that restrains or obstructs access to the body of water.
- 3.1.4 blanket—a material used for thermal insulation. See also solar energy blanket.
- 3.1.5 *cover*—something that covers, protects or shelters, or a combination thereof, a swimming pool, spa, or hot tub.
- 3.1.6 debris cover—a cover with attendant appurtenances positioned over the pool area which permits the cover to prevent debris, such as foliage, dirt, windblown trash, and the like from entering the pool. It is intended to be completely removed before the entry of bathers. See also other covers (OC).
- 3.1.7 *decks*—those areas abutting a pool, spa, or hot tub that are specifically constructed or installed (for example, of wood, concrete, brick, stone, and the like) for use by bathers for sitting, standing or walking and may also act as a base for supports for covers.
- 3.1.8 *dome*—a semipermanent enclosure supported by trusses, or positive air pressure erected over the pool area to provide temperature and atmospheric control over the pool environment.
- 3.1.9 energy conservation—the reduction of heat loss from pool water through air convection or evaporative cooling, or both.
- 3.1.10 hot tub—a spa constructed of wood with sides and bottoms formed separately; and the whole shape joined together by pressure from surrounding hoops, bands or rods; as distinct from spa units formed of plastic, concrete, metal, or other materials.
- 3.1.11 inaccessible locations—a location at least 5 ft (1.5 m) above the ground with no other access such as hand or footholds which would permit a child to reach the location.
- 3.1.12 manual cover—a cover which requires it to be placed over the water area by hand. See also manual safety cover (MSC), and other covers (OC).

- 3.1.13 *markings*—the application of numbers, letters, labels, tags, symbols or colors to provide identification and safety information and to expedite handling during shipment and storage.
- 3.1.14 manual safety cover (MSC)—a barrier which requires it to be placed over the water manually. Provides a high level of safety for children under the age of five by inhibiting their access to the water.
- 3.1.15 other covers (OC)—includes any cover type not incorporated in the other two classifications; PSC, MSC. They are not intended to serve as a barrier for children under the age of five.
- 3.1.16 power safety cover (PSC)—a barrier which can be placed over the water area and removed with a motorized mechanism actuated by a suitable control mechanism. Provides a high level of safety for children under the age of five by inhibiting their access to the water.
- 3.1.17 safety cover—a barrier (intended to be completely removed before entry of bathers), for swimming pools, spas, hot tubs or wading pools, attendant appurtenances and/or anchoring mechanisms which reduces—when properly labeled, installed, used and maintained in accordance with the manufacturers' published instructions—the risk of drowning of children under five years of age, by inhibiting their access to the contained body of water, and by providing for the removal of any substantially hazardous level of collected surface water. See also power safety cover (PSC), and manual safety cover (MSC).
- 3.1.18 solar energy blankets—a cover which is a floating translucent (not transparent) heat insulating sheet incorporating, for example, encapsulated air bubbles or similar low heat transfer (floating) sheet material whose purpose is to inhibit heat dissipation from the pool water surface through air convection or evaporative cooling. The sheet material, customarily translucent (not transparent) to permit the transfer of solar radiation energy directly to the pool water at all depths and intended for day and night use, is cut to the shape of the pool and is not affixed to the pool structure. It is intended to be completely removed before the entry of bathers.
- 3.1.19 energy conservation blanket—a cover which is a floating heat insulating sheet material incorporating, for example, a cellular foam or similar low-heat transfer material whose purpose is to inhibit heat loss from the covered water, through air convection or evaporative cooling, or both. Such materials are customarily cut to the shape of the pool and are intended for a night covering. The blanket is not affixed to the pool structure. It is intended to be completely removed before the entry of bathers.
- 3.1.20 wading pool—a shallow pool intended for wading, not swimming.
- 3.1.21 waterline—the waterline shall be defined in one of the following ways:
- 3.1.22 *skimmer system*—the water line shall be at the mid-point of the operating range of the skimmers.
- 3.1.23 *overflow system*—the waterline shall be at the top of the overflow outlet.

4. Cover Classifications and Minimum Qualification Criteria

- 4.1 Power Safety Cover (PSC)—Provides a high level of safety for children under the age of five by inhibiting their access to the water.
- 4.1.1 Must satisfy 5.1-5.3, 6.1-6.5, 7.1-7.4, 8.1, 8.2, 8.4-8.12, 9.1-9.4, 10.1-10.4, and all subsections.
- 4.2 Manual Safety Cover (MSC)—Provides a high level of safety for children under the age of five by inhibiting their access to the water. May require a longer period of time to be fully secured.
- 4.2.1 Must satisfy 5.1-5.3, 6.1-6.5, 7.1-7.4, 8.1, 8.2, 8.4-8.12, 9.1-9.4, and all subsections.
- 4.3 Other Covers (OC)—Includes any cover type not incorporated in the other two categories MSC, PSC. They are not intended to serve as a barrier for children under the age of five. Design characteristics may be hazardous when used in the presence of children under the age of five.
- 4.3.1 Shall satisfy 5.1-5.3, 8.1-8.3, 8.5-8.12, and all subsections.

5. Materials and Manufacture

- 5.1 Only materials not known to be harmful to health, within the intended application, shall be used.
- 5.2 All materials and components shall be durable and satisfactory for the intended purpose under the conditions normally prevailing at the site.
- 5.3 The cover shall be manufactured or fabricated, or both, in accordance with generally accepted, good manufacturing practices.

6. General Requirements for Safety Covers

- 6.1 Installation/Use of safety covers—Unless installed by the manufacturer, or responsible parties, or both, detailed instructions for installation shall be given in a form included in the packaging or a label, or both, attached to the cover.
- 6.2 Labels attached to the cover shall meet the general requirements described in 8.5.1 and 8.8-8.8.2.
- 6.3 Markings for safety covers shall include:
- 6.3.1 the manufacturer's name,
- 6.3.2 date manufactured or installed, and
- 6.3.3 instructions to consumers to inspect the cover for premature wear or deterioration.
- 6.3.4 Labels attached to covers shall meet the general requirements described in 8.4.1, 8.7-8.8.1, and 8.9.
- 6.4 Fastening mechanisms or devices—Ties, attachment points, anchors, anchorage, and controls for automatic covers or other means of fastening a cover shall include provisions such as keys, combination locks, special tools, devices, or inaccessible locations, and the like, to inhibit children under five years of age from removing or operating the cover. When subjected to the load and perimeter deflection tests described in 9.1 and 9.2, all fastening devices shall remain in their intended, secured or closed, or both, position. After the test, the intended performance of the device should not be impaired.
- 6.5 Openings—The cover shall be designed in such a way that, when it is tested by the test method described in 9.4, any opening in the major component or between the edge of the

cover and the deck surface or coping wall, or both, and the top surface of the spa or pool does not allow the test object to pass through. The test object shall not gain access to the water, or be subject to entrapment.

6.6 Seams, ties or welds in the cover shall show no signs of damage, which will impair intended performance of the device when the cover is tested by the methods described in 9.1-9.4.

7. Performance Requirements for Safety Covers

- 7.1 Static Load—In the case of a pool with a width or diameter greater than 8 ft (2.4 m) from the periphery, the cover shall be able to hold a weight of 485 lb (220.0 kg) (2 adults and 1 child) to permit a rescue operation.
- 7.1.1 In the case of a pool with a width or diameter not greater than 8 ft (2.4 m) the cover shall withstand the weight of 275 lb (125 kg) (weight of a child and an adult). Compliance shall be determined by the test method described in 9.1.
- 7.2 Perimeter Deflection—The cover shall be designed in such a way that, when it is tested by the test method described in 9.2, deflection of the cover does not allow the test object to pass between the cover and the side of the pool, or to gain access to the water.
- 7.3 Surface Drainage—The cover shall be so constructed, or incorporate a system, or have an auxiliary system provided, that when used in accordance with the manufacturer's instructions, shall drain substantially all standing water from the cover within a period of 30 min after cessation of normal rainfall. Compliance shall be determined by the test in 9.3.
- 7.4 Opening Tests—The tests shall be conducted by the test method described in 9.4 to demonstrate that any opening in the major component or between the edge of the cover and the deck surface or coping wall, or both, and the top surface of the pool or the top surface of the spa is sufficiently small and strong to prevent the opening from being forced to a size that will allow the test object to pass through.

8. Minimum Label Requirements for All Covers for Swimming Pools, Spas, and Hot Tubs

8.1 Product Label—All covers shall be labeled/marked to identify manufacturers or other responsible parties (such as

private label distributors), or both. Labels attached to covers shall meet the general requirements described in 8.5.1 and 8.8-8.8.2.

- 8.2 Warning Labels—All covers shall be required to have attached the following warning label:
 - 8.2.1 Signal Word—WARNING.
- 8.2.2 Safety Alert Symbol—Preceding the signal word there shall be triangle with an exclamation point inside the triangle.
- 8.2.2.1 Word Message—The standard word message shall be AVOID DROWNING RISK which shall be the first message to appear directly under the signal word.
- 8.2.2.2 Additional Word Message Statement—Covers with any of the outlined hazards in Fig. 1 shall list all applicable warning statements on the label.
 - 8.3 Color—Non-safety cover warning label.
 - 8.3.1 Signal Word—Black letters with orange background.
- 8.3.2 Safety Alert Symbol—Black triangle with orange exclamation point.
- 8.3.3 Word Message—Black lettering on white background or white letters on black background.
 - 8.4 Color—Safety cover warning label.
- 8.4.1 Colors assigned to the signal word panel may also be used for the message word panel provided the panel colors contrast with the lettering of the label. This is applicable to covers conforming with the PSC and MSC classifications only.
 - 8.5 Warning Label-Letter size.
- 8.5.1 Lettering shall be of a size that enables a person with normal vision, including corrected vision, to read the safety sign or label at a safe viewing distance from the hazard. Considerations should be given to environmental variables that will affect readability.
- 8.5.2 Signal Word—Letter height shall be at least 50 % greater than the selected height of the message panel wording.
- 8.5.3 Safety Alert Symbol—Safety alert symbol, when used with the signal word shall precede the signal word. The base of the safety alert symbol shall be on the same horizontal line as the base of the letters of the signal word. The height of the safety alert symbol shall equal or exceed the signal word letter height.

"HAZARD/WARNING STATEMENT CHART"			
If This Hazard Exists:	Add This Warning Statement:		
*Will not support weight (as defined in this specification) Nonsecured or improperly secured covers	*Stay off cover—will not support weight.		
*Concealment by slipping under cover	*Keep children away. Children or objects cannot be seen under cover.		
*Drowning on top of cover in accumulated surface water (as defined in this specification)	*Remove Standing Water—child can drown on top of cover.		
*Concealment, Entrapment—Drowning under cover	*Remove cover(s) completely before entry of bathers—entrapment possible.		
*General requirement for all covers	*Non-secured or improperly secured covers are a hazard.		
*Option to above for Safety Covers	*Failure to follow all instructions may result in injury or drowning.		
*Cover does not meet all requirements of this specification for PSC, MSC.	*This is not a Safety Cover.		

- 8.5.4 Word message letter height shall be as defined in Table 1.
 - 8.6 Letter style:
- 8.6.1 Signal Word shall be in sans serif letters in upper case only.
- 8.6.2 Message Panel shall be in sans serif letters. Letters may be in upper case only.
- 8.6.3 Examples of acceptable lettering styles are: medium or bold helvetica, or news gothic bold.
- 8.7 *Placement*—Location shall be such that the message will:
- 8.7.1 Be readily visible to the intended viewer, taking into consideration all possible viewing angles, and
- 8.7.2 Alert the viewer to the potential hazard in time to take appropriate action.
- 8.7.3 Label must be located so as not to be removed in the fitting process.
- 8.8 Life Expectancy—The label shall have a reasonable expected life with good color stability and word message legibility when viewed as stated in 8.5.1. Reasonable expectancy shall be taken into consideration in accordance with the expected life of the product.
- 8.8.1 *Protection*—When possible, placement of label should provide protection from foreseeable damage, fading, or visual obstruction caused by abrasion, ultraviolet light or substances such as chemicals or dirt.
- 8.8.2 *Attachment*—The label shall be attached permanently to the product or so that it cannot be easily removed.
- 8.9 Replacement—Product/Warning labels should be replaced by the product user when they no longer meet legibility requirements for safe viewing distance described in 8.5.1 and 8.9.1. In cases where products have an extensive expected life or where exposed to extreme conditions, the product user should be able to obtain replacement labels from the manufacturer or responsible party.
- 8.10 *Instruction/Use Label*—Any product instructions or use label not attached to the product, intended to be viewed by the consumer/user shall contain in its contents the same applicable warning label as set forth in 8.2-8.6.3.
- 8.10.1 When special circumstances limit use of label colors to two colors, the colors assigned to the message word panel may also be used for the signal word panel provided that the panel colors contrast with background color of instruction/use label
- 8.11 Packaging Label—If packaging is intended for product display to the consumer/user, applicable warning label as

TABLE 1 Word Message Letter Height Sizes

Safe Viewing Distance	Minimum Letter Height for FAVORABLE Reading Conditions	Minimum Letter Height for UNFAVORABLE Reading Conditions	
less than 24 in.	Height (in.) = View Distance	Height (in.) = View Dist.	
24 to 96 in.	Height (in.) $=\frac{\text{View Distance}}{300}$	Height (in.) = $\frac{\text{View Dist.}}{150}$	
greater than 96 in.	Height (in.) = $\frac{\text{View Distance}}{400}$	Height (in.) $=\frac{\text{View Dist.}}{300}$	

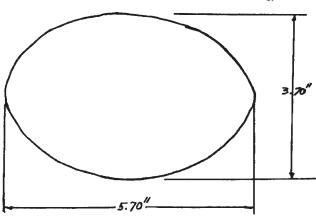
described in 8.2-8.6.3 shall be placed on the printed side of the package intended for display and/or consumer information. The label shall be printed on or affixed to the package and not easily removable.

- 8.11.1 When special circumstances limit use of label colors to two colors, the colors assigned to the signal word panel may also be used for the message word panel provided that the panel colors contrast with background color of packaging.
- 8.12 Compliance Labeling—All labels shall note the specific cover classification.

9. Test Methods For Safety Covers

- 9.1 Static Load Test:
- 9.1.1 This test shall be conducted to demonstrate that the cover is capable of supporting a weight of (a) 485 lbs (composed of one 210-lb, one 225-lb or one 50-lb weight) for pools or spas within a width or diameter greater than 8 ft or (b) 275 lbs (composed of one 225-lb and one 50-lb weight) for a pool or a spa with a width or diameter equal to or less than 8 ft distributed over 1 ft² each, all of which are within a 3-ft radius without the test objects causing damage which would allow any of the test objects to pass through the cover. During this test there shall be no requirement for the absence of water appearing on the surface of the cover.
- 9.1.2 *Procedure*—The pool shall be filled to its waterline and the cover fitted in accordance with the cover manufacturer's instructions. The test objects shall be placed on the surface of the cover at the following critical points:
 - 9.1.2.1 The center point of the cover.
- 9.1.2.2 Between attachment points and a distance of at least 4 ft (1.2 m) but not to exceed 6 ft from the side of the pool.
- 9.1.2.3 The test objects shall remain in each test position for a period of 5 min.
 - 9.2 Perimeter Deflection Test:
- 9.2.1 This test shall be conducted to demonstrate the following: if a child under the age of five were to fall onto the cover neither that child nor another child could slip through any openings that may occur between the cover and the side of the pool.
- 9.2.2 Perimeter Deflection Test Object—Test object shall be 3.7 in. (0.09 m) by 5.7 in. (0.14 m) by a minimum 12 in. length and a weight of 36.6 lbs in an ellipsoidal shape. See Fig. 2.
- 9.2.3 Procedure—With 50 lbs (22.7 kg) on the cover at a distance of at least 4 ft, but not exceeding 6 ft from the side of the pool, the same cover shall not deflect to allow a perimeter test object to pass through, gain access to the water or be subject to entrapment between the cover and the side of the pool.
 - 9.3 Surface Drainage Test:
- 9.3.1 Surface Drainage Test Object—Timmy³ or equivalent (32 in. length by 9 in. width by 5 in. deep by 36.6 lbs torso-shaped object) shall be placed on the pool cover in a supine position, faceup, within two to three feet of and parallel with the pool's edge. Three minutes later there shall not be an unsafe amount of water. An unsafe amount of water is defined

³ "Timmy" is a CPR mannequin, three year old boy; available from Simulaids Inc., P.O. Box 807, Dixon Avenue, Woodstock, NY 12489.



Note 1—Area = 16.6 in.² Note 2—Perimeter = 15.0 in.

FIG. 2 Template for Swimming Pool Cover Standard

as any quantity of water which completely covers the torso of the surface drainage test object.

9.3.2 Procedure—Test the cover by spraying water evenly over the area at an application rate of 10 gal/min per 1000 ft² (9.29 m²) of pool area for a period of 30 min. During this test, all equipment shall operate in accordance with cover manufacturer's instructions. Thirty minutes after completion of this procedure, the cover shall pass the test method in 9.3. At all times during the procedure, maintain the pool level at the waterline.

9.4 Openings Test:

9.4.1 These tests shall be conducted to demonstrate that any openings remain small enough to prevent a small child's head from gaining access to the water.

9.4.2 Openings test object—A solid faced sphere test object with a maximum breadth of 4.5 in.

9.4.3 *Procedure*—The cover shall be fitted in accordance with the cover manufacturer's instructions. The test object shall be placed at or into any existing opening and apply a force of 40 lbs (plus or minus 1 pound) steadily to ensure the test object cannot pass through at the following critical openings:

9.4.3.1 Any opening between the edge of the cover and the deck surface and coping wall, or both, or the top surface of the spa or pool.

9.4.3.2 Any opening in the major component of the cover.

10. Operating Controls, Safety Covers

10.1 The open-close switch shall be spring-loaded or of the momentary contact type, so that when released, the cover stops operation immediately at any point in the open or closed cycle period.

10.2 The cover shall be reversible in direction from a full stop at any point in its travel without having to complete the full open or closed cycle.

10.3 Electrically operated control switches and motors shall be installed in accordance with the National Electrical Code Article 680-26.

10.4 The type of pool covering operating controls shall be such that:

10.4.1 Its fixed location is in the line of sight of the complete pool cover, or by its operating process. This ensures that the operator shall be in complete view of the cover at all times during the closing or pool covering process.

10.4.2 Switching devices shall be key-operated or locked away or able to be de-activated or otherwise located in an inaccessible location. An inaccessible location shall be at a height of at least five feet above the deck.

ANNEX

(Mandatory Information)

A1. RATIONALE

A1.1 Scope

A1.1.1 Although the majority of child-drowning and near-drowning which were reported did not involve safety covers, those who purport to provide a level of safety should be held to a higher level of reliability. Injury reports made available from CPSC indicate that male children, one and two years of age, living in a home with an in-ground pool are at the highest risk of being involved in a submersion incident that requires medical care.

A1.2 Referenced Documents

A1.2.1 Allows document reviewers the necessary information to validate the text of the standard.

A1.3 Terminology

A1.3.1 Consumers and new manufacturers may not be familiar with the technological language used within the text. This section also provides definitions for new terms created for this standard.

A1.4 Cover Classifications and Minimum Qualification Criteria

A1.4.1 By defining both the level of safety afforded and standard requirements to be satisfied, manufacturer and consumer will be able to define their needs and properly interpret

the standard. This section also allows manufacturers to research and develop new technology which when applied could change their designation.

A1.5 Materials and Manufacture

A1.5.1 Varying lead times for material availability restrict or delay immediate compliance with this standard.

A1.6 Performance Requirements For Safety Covers

- A1.6.1 Specified load factors represent the 95th percentile for a child under the age of five as well as one male adult and one female adult.
- A1.6.2 If one child should gain access to the surface of the cover, another child in the area of the pool should not face increased risk.
- A1.6.3 Recognizing that some residual water will remain after the surface water is removed, the test has been devised to ensure that the level can be maintained below that deemed substantially hazardous to a child of three based on data received from the Consumer Product Safety Commission.
- A1.6.4 Openings in the major component or horizontal openings between the cover and solid structure of the pool area should remain small enough to prevent the head of a small child from gaining entrance. The head breadth for a 5th percentile of a 7 month old is about 4.5 in. The smallest mobile child would be about 7 months old since at this age 50 % of children can creep on hands and knees.

A1.7 Minimum Label Requirements For All Covers For Swimming Pools, Spas, and Hot Tubs

- A1.7.1 Labeling on the product allows for transfer of the information to second owners and temporary users.
- A1.7.2 The combination of Signal Word, Safety Alert Symbol and Word Message provides a higher level of warning than any single effort.
- A1.7.3 An effort is being made nationally to make consistent the colors used to alert consumers to potential hazards.
- A1.7.4 Contrast of colors between letter colors and labels are necessary in order to attract users' attention to label and enable readability.
- A1.7.5 Letter size is an important factor in warning legibility so the consumer can recognize and avoid the hazard.
- A1.7.6 Style of lettering affects the readability of the warning message.
- A1.7.7 Warning labels can be more effective if they allow for reaction time on the part of the consumer.
- A1.7.8 Damaged labels would not provide as strong a message as necessary.
- A1.7.9 Due to extended life expectancy of cover products, labels cannot be expected to maintain their original appearance.
- A1.7.10 Labeling messages and format should be consistent from point of purchase to use and/or application of cover.

- A1.7.11 Packaging is, at times, the consumers first exposure to product information. Information contained on the warning label is necessary for making informed choices.
- A1.7.12 All labels shall note that the product meets the requirements described in Specification F 1346.

A1.8 General Requirements For Safety Covers

- A1.8.1 Installation can be a key factor in the effectiveness of a safety cover whether it is manually or power installed.
- A1.8.2 Manufacturer's markings are necessary to allow a continuity for second owners and consumer/manufacturer contact
- A1.8.3 The mechanisms which secure the cover are an integral component that help to defeat a child's entry to the water.
- A1.8.4 Openings shall not be so large that the purpose of the cover is defeated.
 - A1.8.5 Structural integrity is necessary to provide safety.

A1.9 Test Methods For Safety Covers

- A1.9.1 The rescue operation may require two adults and the cover shall support the total combined weight to avoid possible injury to those in the rescue attempt. The 95th percentile is represented by the 225-lb male, 210-lb female and 50-lb child.
- A1.9.2 This test was devised to avoid an opening large enough for one child or another child to fall between the edge of the cover and the edge of the pool when one child of 50 lb is already on the cover.
- A1.9.3 Recognizing that some residual water remains after the surface water is removed, this test is devised to ensure that the level is maintained below a level deemed substantially hazardous to a child under three years of age.
- A1.9.4 No opening shall exist in the cover or at any point that the cover joins the surface of the pool structure or deck area (which would allow a small child's head to gain access to the water or become entrapped). The head breadth for a 5th percentile 7 month old is about 4.5 in.

A1.10 Operating Control, Safety Covers

- A1.10.1 Operator controlled momentary contact type switches afford greater control in the event of an emergency.
- A1.10.2 Should a child enter the water during the closure process, the cover shall be able to reverse without total closure.
- A1.10.3 It is important in the case of an electrical installation to protect children and all swimmers from the possibility of electrocution, which is the purpose of Article 680-26 of the National Electrical Code.
- A1.10.4 Operator observation of the pool during the closing process is necessary to ensure that another person does not enter the water during the process. Additionally, the location of the activating device or the ability to render it inactive is necessary to avoid unauthorized opening of the cover.

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